Mr. Adams made known the receipt of the letter to the responsible Army staff. After review of the letter, it was concluded that there was no additional evidence to require modification of the prior determination in the Peress case which had been based on all the available information known at that time, and that the best interests of the United States would be served by his prompt separation, a matter which was about to be consummated. In view of my imminent return Mr. Adams then decided to delay the preparation of the reply until my actual arrival. I arrived back in Washington late on the afternoon of February 3. I spent February 4 being briefed on matters most urgent to the national defense. Mr. Adams reviewed Senator McCARTHY's letter with me on the following morning, February 5. At that time I directed that a full investigation of the Peress case be made by the Inspector General and initiation of a draft of my reply to Senator McCARTHY, which culminated in my letter of February 16, 1954.

Trusting this is the information desired, I am,

Sincerely yours,

ROBERT T. STEVENS,
Secretary of the Army.

Mr. CASE. Mr. President, I think that makes the record complete. I think all these matters will be of interest to the various Members of the Senate.

RECESS TO 11 A. M. TOMORROW

Mr. KNOWLAND. Mr. President, I move that the Senate stand in recess until 11 o'clock tomorrow.

The motion was agreed to; and (at 6 o'clock and 2 minutes p. m.) the Senate took a recess until tomorrow, Tuesday, November 16, 1954, at 11 o'clock a. m.

SENATE

TUESDAY, NOVEMBER 16, 1954

(Legislative day of Wednesday, November 10, 1954)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

Dr. Emory S. Bucke, Nashville, Tenn., offered the following prayer:

Our Heavenly Father, we pray for the spirit of hope in a day when men have lost hope. We pray for faith in each other that we may learn from that faith in ourselves and thus faith in Thee.

Bless this day and all its doings. May we begin it and end it in Thee. May our hearts be humble, but confident in Thee and in Thy way for us.

Guide our Nation, forgive us our sins, and unite us heart to heart in the doing of Thy will, for "Thine is the kingdom, the power, and the glory, forever." Amen.

THE JOURNAL

On request of Mr. KNOWLAND, and by unanimous consent, the reading of the Journal of the proceedings of Monday, November 15, 1954, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. KNOWLAND. Mr. President, I ask unanimous consent that immediately following the quorum call there may be the customary morning hour for the transaction of routine business, under the usual 2-minute limitation on speeches.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Abel	Capehart	Duff
Aiken	Carlson	Dworshak
Anderson	Case	Eastland
Barrett	Chavez	Ellender
Beall	Clements	Ervin
Bennett	Cooper	Ferguson
Bridges	Cotton	Flanders
Brown	Crippa	Frear
Burke	Daniel, S.C.	Fulbright
Bush	Daniel, Tex.	Gillette
Butler	Dirksen	Goldwater
Byrd	Douglas	Green
Hayden	Kuchel	Potter
Hendrickson	Langer	Purtell
Hennings	Lehman	Robertson
Hickenlooper	Lennon	Russell
Hill	Long	Saltonstall
Holland	Magnuson	Schoeppel
Hruska	Malone	Smith, Maine
Humphrey	Mansfield	Smith, N. J.
Ives	McCarthy	Sparkman
Jackson	McClellan	Stennis
Jenner	Monroney	Symington
Johnson, Colo.	Morse	Thye
Johnson, Tex.	Mundt	Watkins
Johnston, S. C.	Murray	Welker
Kefauver	Neely	Wiley
Kilgore	Pastore	Williams
Knowland	Payne	Young

Mr. SALTONSTALL. I announce that the Senator from Ohio [Mr. BRICKER] is absent by leave of the Senate.

The Senator from Oregon [Mr. CORDON] and the Senator from Colorado [Mr. MILLIKIN] are necessarily absent.

The Senator from Pennsylvania [Mr. MARTIN] is absent on official business.

Mr. CLEMENTS. I announce that the Senator from Georgia [Mr. GEORGE] and the Senator from Oklahoma [Mr. KERR] are necessarily absent.

The Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] are absent by leave of the Senate on official business.

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

The PRESIDENT pro tempore. A quorum is present.

Routine business is now in order.

REPORT OF JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES—SUMMARY OF PERSONNEL AND PAY REPORTS ON CIVILIAN EMPLOYMENT

Mr. BYRD. Mr. President, as chairman of the Joint Committee on Reduction of Nonessential Federal Expenditures, I submit a summary of monthly personnel reports on civilian employment in the executive branch of the Federal Government issued since the recess of Congress in August. The reports were concerned with employment and payrolls during the period June–September 1954, inclusive.

In accordance with the practice of several years' standing, I request that the summary be printed in the body of the RECORD, as a part of my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Summary of personnel and pay reports, June through September 1954

Total and major categories	Civilian personnel in executive branch			Payroll (in thousands) in executive branch		
	In September numbered—	In June numbered—	Increase (+) or decrease (−)	In August was—	In May was—	Increase (+) or decrease (−)
Total [1]	2,317,565	2,333,894	−16,329	$774,464	$751,688	+$22,776
Agencies exclusive of Department of Defense	1,174,985	1,185,068	−10,083	401,749	392,336	+9,413
Department of Defense	1,142,580	1,148,826	−6,329	372,715	359,352	+13,363
Inside continental United States	2,128,115	2,149,954	−21,839			
Outside continental United States	189,450	183,940	+5,510			
Industrial employment	712,787	713,884	−1,097			
Foreign nationals	384,239	404,083	−19,844	25,452	26,061	−609

[1] Exclusive of foreign nationals shown in the last line of this summary.

TABLE I.—*Consolidated table of Federal personnel inside and outside continental United States employed by the executive agencies during September 1954, and comparison with June 1954, and pay for August 1954, and comparison with May 1954*

Department or agency	Personnel				Pay (in thousands of dollars)			
	September	June	Increase	Decrease	August	May	Increase	Decrease
Executive departments (except Department of Defense):								
Agriculture	73,293	76,371		3,078	$24,761	$22,005	$2,756	
Commerce [1]	43,657	41,894	1,763		16,734	16,573	161	
Health, Education, and Welfare	35,781	[2] 35,468	313		13,262	12,670	592	
Interior	53,390	56,908		3,518	21,065	19,145	1,920	
Justice	30,716	31,023		307	13,141	12,183	958	
Labor	5,064	5,129		65	2,176	2,102	74	
Post Office	505,621	507,135		1,514	161,845	161,393	452	
State [7]	20,927	[3] 20,427	500		6,829	6,641	188	
Treasury [8]	80,700	80,894		194	31,624	30,480	1,144	
Executive Office of the President:								
White House Office	270	267	3		135	128	7	
Bureau of the Budget	428	419	9		259	238	21	
Council of Economic Advisers	33	26	7		22	18	4	
Executive Mansion and Grounds	65	109		44	21	24		$3
National Security Council [4]	25	28		3	15	15		
Office of Defense Mobilization	283	335		52	179	182		3
President's Advisory Committee on Government Organization	6	4	2		3	2	1	
Independent agencies:								
Advisory Committee on Weather Control [5]	16		16		3		3	
American Battle Monuments Commission	873	878		5	101	102		1
Atomic Energy Commission	6,028	6,200		172	2,961	2,846	115	
Board of Governors of the Federal Reserve System	567	573		6	259	247	12	
Civil Aeronautics Board	535	540		5	279	268	11	
Civil Service Commission	4,178	4,384		206	1,732	1,733		1
Commission on Intergovernmental Relations	57	42	15		29	19	10	
Committee on Retirement Policy for Federal Personnel [6]		7		7		5		5
Defense Transport Administration	20	26		6	12	16		4
Export-Import Bank of Washington	133	133			72	70	2	
Farm Credit Administration	1,100	1,101		1	507	485	22	
Federal Civil Defense Administration	594	709		115	356	356		
Federal Coal Mine Safety Board of Review	8	8			3	4		1
Federal Communications Commission	1,105	1,146		41	547	535	12	
Federal Deposit Insurance Corporation	1,078	1,017	61		466	434	32	
Federal Mediation and Conciliation Service	358	363		5	233	214	19	
Federal Power Commission	644	661		17	324	310	14	
Federal Trade Commission	593	596		3	314	304	10	
Foreign Claims Settlement Commission [7]	228		228		105		105	
Foreign Operations Administration	5,784	5,858		74	2,502	2,270	232	
General Accounting Office	5,840	5,920		80	2,428	2,321	107	
General Services Administration [8]	25,972	26,769		797	8,141	8,304		163
Government Contract Committee	12	12			5	4	1	
Government Printing Office	6,823	6,848		25	2,846	2,686	160	
Housing and Home Finance Agency [8]	10,597	10,715		118	4,633	4,382	251	
Indian Claims Commission	14	14			9	9		
Interstate Commerce Commission	1,865	1,868		3	883	845	38	
National Advisory Committee for Aeronautics	7,096	7,161		65	3,148	2,996	152	
National Capital Housing Authority	285	313		28	96	101		5
National Capital Planning Commission	19	20		1	10	9	1	
National Gallery of Art	309	319		10	96	91	5	
National Labor Relations Board	1,182	1,224		42	607	580	27	
National Mediation Board	106	116		10	63	81		18
National Science Foundation	167	211		44	85	79	6	
National Security Training Commission	6	5	1		4	3	1	
Panama Canal	15,815	15,873		58	3,235	3,442		207
Railroad Retirement Board	2,480	2,255	225		842	750	92	
Reconstruction Finance Corporation [8]		1,024		1,024		495		495
Renegotiation Board	622	639		17	358	386		28
Rubber Producing Facilities Disposal Commission	23	25		2	12	13		1
Securities and Exchange Commission	703	699	4		384	368	16	
Selective Service System	7,277	7,447		170	1,679	1,613	66	
Small Business Administration [8]	719	601	118		373	294	79	
Smithsonian Institution	518	547		29	185	176	9	
Soldiers' Home	923	888	35		187	158	29	
Subversive Activities Control Board	33	32	1		20	18	2	
Tariff Commission	198	192	6		103	100	3	
Tax Court of the United States	142	141	1		74	71	3	
Tennessee Valley Authority	23,870	23,933		63	10,701	11,105		404
United States Information Agency	9,550	9,547	3		2,308	2,239	69	
Veterans' Administration	177,661	178,857		1,196	55,358	54,536	822	
War Claims Commission [7]		174		174		64		64
Total, excluding Department of Defense	1,174,985	1,185,068	3,311	13,394	401,749	392,336	10,816	1,403
Net change, excluding Department of Defense			10,083				9,413	
Department of Defense:								
Office of the Secretary of Defense	1,886	1,903		17	$1,023	$938	$85	
Department of the Army [9]	428,698	438,164		9,466	126,863	122,240	4,623	
Department of the Navy	410,049	413,136		3,087	146,555	142,504	4,051	
Department of the Air Force [9]	301,947	295,623	6,324		98,274	93,670	4,604	
Total, Department of Defense	1,142,580	1,148,826	6,324	12,570	372,715	359,352	13,363	
Net change, Department of Defense			6,246				13,363	
Grand total, including Department of Defense	2,317,565	2,333,894	9,635	25,964	774,464	751,688	24,179	$1,403
Net change, including Department of Defense			16,329				22,776	

[1] September figure includes 932 seamen on the rolls of the Maritime Administration and their pay.

[2] Revised to exclude 73 employees of Gallaudet College and 1,176 employees of Howard University.

[3] Revised on basis of later information.

[4] Exclusive of personnel and pay of the Central Intelligence Agency.

[5] New agency, created pursuant to Public Law 256, 83d Cong.

[6] Ceased to exist.

[7] New agency, created pursuant to Reorganization Plan No. 1 of 1954. The functions of the International Claims Commission of the State Department and the War Claims Commission were transferred to the Foreign Claims Settlement Commission July 1, 1954.

[8] The Reconstruction Finance Corporation was transferred to the Department of the Treasury pursuant to Public Law 163, 83d Cong.; pursuant to Executive Order 10539, dated June 22, 1954, 17 employees were transferred to the General Services Administration and pursuant to Reorganization Plan No. 2 of 1954, 20 employees were transferred to the Federal National Mortgage Association, and 33 employees were transferred to the Small Business Administration.

[9] On the basis of current information figures for September have been adjusted to—

(*a*) Exclude foreign nationals under contractual agreement in:

	Army	Air Force
Austria		190
England		6,224
France	10,743	5,292

Figures for June have not been adjusted. The services of these foreign nationals is provided by contractual agreement between the Government of the United States and the governments of the respective countries. Reporting of these foreign nationals is now shown in table 6 of this report. Payroll figures have also been adjusted. (Army figures subject to revision.)

(*b*) Include foreign nationals employed by the United States in:

	Army	Air Force
Korea		8,711
Ryukyus	10,634	4,610

Figures for June have not been adjusted. These foreign nationals have heretofore been shown in table 6 of this report. Payroll figures have also been adjusted. (Figures for Army are subject to revision.)

TABLE II.—*Federal personnel inside continental United States employed by executive agencies during September 1954, and comparison with June 1954*

Department or agency	September	June	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	72,143	75,122		2,979
Commerce [1]	40,650	38,826	1,824	
Health, Education, and Welfare	35,282	[2] 34,975	307	
Interior	47,020	49,589		2,569
Justice	30,207	30,506		299
Labor	4,921	5,009		88
Post Office	503,277	504,791		1,514
State [7]	5,833	[2] 5,787	46	
Treasury [3]	79,700	79,889		189
Executive Office of the President:				
White House Office	270	267	3	
Bureau of the Budget	428	419	9	
Council of Economic Advisers	33	26	7	
Executive Mansion and Grounds	65	109		44
National Security Council [4]	25	28		3
Office of Defense Mobilization	283	335		52
President's Advisory Committee on Government Organization	6	4	2	
Independent agencies:				
Advisory Committee on Weather Control [5]	16		16	
American Battle Monuments Commission	17	16	1	
Atomic Energy Commission	6,010	6,180		170
Board of Governors of the Federal Reserve System	567	573		6
Civil Aeronautics Board	529	532		3
Civil Service Commission	4,168	4,374		206
Commission on Intergovernmental Relations	57	42	15	
Committee on Retirement Policy for Federal Personnel [6]		7		7
Defense Transport Administration	20	26		6
Export-Import Bank of Washington	133	133		
Farm Credit Administration	1,088	1,089		1
Federal Civil Defense Administration	594	709		115
Federal Coal Mine Safety Board of Review	8	8		
Federal Communications Commission	1,079	1,121		42
Federal Deposit Insurance Corporation	1,077	1,016	61	
Federal Mediation and Conciliation Service	358	363		5
Federal Power Commission	644	661		17
Federal Trade Commission	593	596		3
Foreign Claims Settlement Commission [7]	223		223	
Foreign Operations Administration	1,603	1,561	42	
General Accounting Office	5,788	5,873		85
General Services Administration [8]	25,854	26,650		796
Independent agencies—Continued				
Government Contract Committee	12	12		
Government Printing Office	6,823	6,848		25
Housing and Home Finance Agency [8]	10,469	10,590		121
Indian Claims Commission	14	14		
Interstate Commerce Commission	1,865	1,868		3
National Advisory Committee for Aeronautics	7,096	7,161		65
National Capital Housing Authority	285	313		28
National Capital Planning Commission	19	20		1
National Gallery of Art	309	319		10
National Labor Relations Board	1,162	1,204		42
National Mediation Board	106	116		10
National Science Foundation	167	211		44
National Security Training Commission	6	5	1	
Panama Canal	551	541	10	
Railroad Retirement Board	2,480	2,255	225	
Renegotiation Board	622	639		17
Reconstruction Finance Corporation [8]		1,018		1,018
Rubber Producing Facilities Disposal Commission	23	25		2
Securities and Exchange Commission	703	699	4	
Selective Service System	7,077	7,246		169
Small Business Administration [8]	719	601	118	
Smithsonian Institution	516	545		29
Soldiers' Home	923	888	35	
Subversive Activities Control Board	33	32	1	
Tariff Commission	198	192	6	
Tax Court of the United States	142	141	1	
Tennessee Valley Authority	23,870	23,933		63
United States Information Agency	2,228	2,207	21	
Veterans' Administration	176,425	177,629		1,204
War Claims Commission [7]		174		174
Total, excluding Department of Defense	1,115,412	1,124,658	2,978	12,224
Net decrease, excluding Department of Defense			9,246	
Department of Defense:				
Office of the Secretary of Defense	1,827	1,842		15
Department of the Army	376,557	387,204		10,647
Department of the Navy	379,509	382,595		3,026
Department of the Air Force	254,750	253,655	1,095	
Total, Department of Defense	1,012,703	1,025,296	1,095	13,688
Net decrease, Department of Defense			12,593	
Grand total, including Department of Defense	2,128,115	2,149,954	4,073	25,912
Net decrease, including Department of Defense			21,839	

[1] September figure includes 932 seamen on the rolls of the Maritime Administration.
[2] Revised to exclude 73 employees of Gallaudet College and 1,176 employees of Howard University.
[3] Revised on basis of later information.
[4] Exclusive of personnel of the Central Intelligence Agency.
[5] New agency, created pursuant to Public Law 256, 83d Cong.
[6] Ceased to exist.
[7] New agency, created pursuant to Reorganization Plan No. 1 of 1954. The functions of the International Claims Commission of the State Department and the War Claims Commission were transferred to the Foreign Claims Settlement Commission July 1, 1954.
[8] The Reconstruction Finance Corporation was transferred to the Department of the Treasury pursuant to Public Law 163, 83d Cong.; pursuant to Executive Order 10539, dated June 22, 1954, 17 employees were transferred to the General Services Administration and pursuant to Reorganization Plan No. 2 of 1954, 20 employees were transferred to the Federal National Mortgage Association, and 33 employees were transferred to the Small Business Administration.

TABLE III.—*Federal personnel outside continental United States employed by the executive agencies during September 1954, and comparison with June 1954*

Department or agency	September	June	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	1,150	1,249		99
Commerce	3,007	3,068		61
Health, Education, and Welfare	499	493	6	
Interior	6,370	7,319		949
Justice	509	517		8
Labor	143	120	23	
Post Office	2,344	2,344		
State	15,094	[1] 14,640	454	
Treasury [2]	1,000	1,005		5
Independent agencies:				
American Battle Monuments Commission	856	862		6
Atomic Energy Commission	18	20		2
Civil Aeronautics Board	6	8		2
Civil Service Commission	10	10		
Farm Credit Administration	12	12		
Federal Communications Commission	26	25	1	
Federal Deposit Insurance Corporation	1	1		
Foreign Claims Settlement Commission	5		5	
Foreign Operations Administration	4,181	4,297		116
General Accounting Office	52	47	5	
General Services Administration	118	119		1
Housing and Home Finance Agency	128	125	3	
National Labor Relations Board	20	20		
Panama Canal	15,264	15,332		68
Reconstruction Finance Corporation [1]		6		6
Selective Service System	200	201		1
Smithsonian Institution	2	2		
United States Information Agency	7,322	7,340		18
Veterans' Administration	1,236	1,228	8	
Total, excluding Department of Defense	59,573	60,410	505	1,342
Net decrease, excluding Department of Defense			837	
Department of Defense:				
Office of the Secretary of Defense	59	61		2
Department of the Army [3]	52,141	50,960	1,181	
Department of the Navy	30,480	30,541		61
Department of the Air Force [3]	47,197	41,968	5,229	
Total, Department of Defense	129,877	123,530	6,410	63
Net increase, Department of Defense			6,347	
Grand total, including Department of Defense	189,450	183,940	6,915	1,405
Net increase, including Department of Defense			5,510	

[1] Revised on basis of later information.
[2] The Reconstruction Finance Corporation was transferred to the Department of the Treasury pursuant to Public Law 163, 83d Cong.; pursuant to Executive Order 10539, dated June 22, 1954, 17 employees were transferred to the General Services Administration and pursuant to Reorganization Plan No. 2 of 1954, 20 employees were transferred to the Federal National Mortgage Association, and 33 employees were transferred to the Small Business Administration.
[3] On the basis of current information figures for September have been adjusted to—
(*a*) Exclude foreign nationals under contractual agreement in:

	Army	Air Force
Austria		190
England		6,224
France	10,743	5,292

Figures for June have not been adjusted. The services of these foreign nationals is provided by contractual agreement between the Government of the United States and the governments of the respective countries. Reporting of these foreign nationals is now shown in table 6 of this report. (Figures for the Army are subject to revision.)
(*b*) Include foreign nationals employed by the United States in:

	Army	Air Force
Korea		8,711
Ryukyus	10,634	4,610

Figures for June have not been adjusted. These foreign nationals have heretofore been shown in table 6 of this report. (Figures for Army are subject to revision.)

TABLE IV.—*Industrial employees of the Federal Government inside and outside continental United States employed by executive agencies during September 1954 and comparison with July 1954*

Department or agency	September	July	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	2,695	2,499	196	
Commerce	2,063	2,136		73
Interior	8,615	7,389	1,226	
Treasury	6,558	6,621		63
Independent agencies:				
Atomic Energy Commission	124	141		17
Federal Communications Commission	14	13	1	
General Services Administration	815	839		24
Government Printing Office	6,823	6,792	31	
National Advisory Committee for Aeronautics	7,096	7,186		90
Panama Canal	7,811	7,843		32
Tennessee Valley Authority	20,598	19,903	695	
Total, excluding Department of Defense	63,212	61,362	2,149	299
Net increase, excluding Department of Defense			1,850	
Department of Defense:				
Department of the Army:				
Inside continental United States	[1] 209,750	215,272		5,522
Outside continental United States	[1] 28,250	27,040	1,210	
Department of the Navy:				
Inside continental United States	238,673	239,291		618
Outside continental United States	6,836	6,832	4	
Department of the Air Force:				
Inside continental United States	151,972	151,627	345	
Outside continental United States	14,094	12,460	1,634	
Total, Department of Defense	649,575	652,522	3,193	6,140
Net decrease, Department of Defense			2,947	
Grand total, including Department of Defense	712,787	713,884	5,342	6,439
Net decrease, including Department of Defense			1,097	

[1] Subject to revision.

NOTE.—Beginning with the report for July 1954 industrial employment has been determined by the overall functional nature of the program or activity providing the employment, whereas before effort was made to base it on the characteristics of individual jobs. For this reason the figures for September are not comparable with figures for June but are compared with figures for the month of July.

TABLE V.—*Foreign nationals working under United States agencies overseas, excluded from usual Federal personnel reporting because of the nature of their work or the source of funds from which they are paid, as of September 1954, and comparison with June 1954 (not included in tables I, II, III, and IV of this report)*

Country	Total		Army [1]		Navy		Air Force [1]	
	September	June	September	June	September	June	September	June
Austria	190						190	
England	6,224						6,224	
France	16,035		10,743				5,292	
Germany	119,589	117,809	97,179	96,588	1,965	1,961	20,445	19,260
Japan	171,892	172,931	111,395	112,562	17,493	17,484	43,004	42,885
Korea	68,865	95,987	[2] 68,865	[2] 87,260				8,727
Libya	195	196					195	196
Ryukyus	203	16,147		11,467	203	205		4,475
Saudi Arabia	416	357					416	357
Trinidad	630	656			630	656		
Total	384,239	404,083	288,182	307,877	20,291	20,306	75,766	75,900

[1] On the basis of current information figures for September have been adjusted to—

(*a*) Include foreign nationals under contractual agreement in—

	Army	Air Force
Austria		190
England		6,224
France	10,743	5,292

Figures for June have not been adjusted. The services of these foreign nationals is provided by contractual agreement between the Government of the United States and the governments of the respective countries. Reporting of these foreign nationals has heretofore been shown in table I and III of this report. (Figures for the Army are subject to revision.)

(*b*) Exclude foreign nationals employed by the United States in:

	Army	Air Force
Korea		8,711
Ryukyus	10,634	4,610

Figures for June have not been adjusted. These foreign nationals are now shown in tables I and III of this report. (Figures for the Army are subject to revision.)

[2] Includes 30,862 members of the Korean Service Corps in September as compared with 31,100 in June.

NOTE.—The Germans are paid from funds provided by German Governments. English, French, and Austrians reported by the Army and Air Force are paid from funds appropriated for personal service. All others are paid from funds appropriated for other contractual services.

FEDERAL HOUSING PROGRAMS

Mr. BYRD. Mr. President, since the beginning of the recent and current investigations into the Federal housing programs, the Joint Committee on Reduction of Nonessential Federal Expenditures has worked as closely as possible with the Internal Revenue Service and the Department of Justice.

In accordance with its practice, the committee, through its chairman, has reported to the Senate on these activities. I ask unanimous consent at this time to have inserted in the body of the RECORD correspondence with the Department of Justice, and pertinent statements by the chairman of the committee, which have occurred during the recess of the Senate, as follows:

First. A statement by the chairman on August 13, 1954, relating to a letter from the Department of Justice, dated August 12, 1954. The Justice Department letter is omitted because it is repeated with more complete detail and later developments in a subsequent letter dated October 18, 1954.

Second. A statement by the chairman dated September 9, 1954, commenting on a Justice Department statement of September 1. The text of the Department of Justice letter is omitted because it is covered in more complete detail and with later developments in a subsequent letter dated October 18, 1954.

Third. A letter from the Department of Justice dated October 18, 1954, relative to legal action in Federal housing program cases.

Fourth. A letter from the Department of Justice dated October 21, 1954, advising of further action by the Department in Federal housing program cases.

There being no objection, the statements and letters were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HARRY F. BYRD, CHAIRMAN OF THE JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES, RELEASING A DEPARTMENT OF JUSTICE LETTER IDENTIFYING CONVICTIONS AND INDICTMENTS GROWING OUT OF FEDERAL HOUSING PROGRAMS, AUGUST 13, 1954

I am in receipt of a letter from the Department of Justice which identifies:

1. Twenty-three convictions and 34 pending indictments in Federal courts growing out of the Federal Housing Administration home-repair and improvement programs;

2. Two overlapping indictments growing out of the Housing and Home Finance Agency slum-clearance program; and

3. Four indictments referred to as "personnel and miscellaneous cases" related to FHA programs.

The letter, dated August 12, 1954, and signed by the Honorable Warren Olney III, Assistant Attorney General of the United States in charge of the Criminal Division, Department of Justice, is in response to an inquiry directed by me on August 3 to the Attorney General.

It is noted that the list does not include any indictments or convictions growing out of the Federal Housing Administration construction loan cases such as those under the 608 and other programs where housing windfalls have been so highly publicized. It is inconceivable to me that the tremendous windfalls already brought to light in these mortgage insurance loans could be unattended by collusion, graft, and fraud. Nearly 3½ million loans have been insured under these programs to a total of $26 billion.

Mr. Olney says many Federal Housing Administration matters currently are being considered in various Federal grand juries throughout the country. He points out that "the Federal Bureau of Investigation on April 12, 1954, (when the housing scandals publicly came to light) for the first time assumed primary jurisdiction of the investigation of all criminal matters arising from the operation of the Federal Housing Administration." He explained that, "Prior to that time, and since 1935, the Federal Housing Administration by an interagency agreement had primary jurisdiction of the investigation in Housing Administration criminal matters."

The malpractices which have been going on under these construction loan insurance programs are a national disgrace, as well as those under other Federal housing programs. I have called upon the Attorney General before to ferret out the crimes which have been committed and to prosecute the guilty to the limit of the law. I repeat this demand now.

The text of the letter I have received from Assistant Attorney General Warren Olney, with the exception of the introductory paragraph, in which he lists and identifies the convictions and indictments recorded to date in the Department of Justice under the FHA $8 billion home improvement and repair program, the lesser slum clearance program, and personnel and miscellaneous cases related to FHA program, follows:

"You request that we identify each of the cases by name, location, and charge; and in cases where convictions have resulted you ask that the penalty imposed be indicated. You will appreciate that the status of cases pending as well as the number of indictments and convictions is not static and that currently there are being considered in various Federal grand juries throughout the country many Federal Housing Administration matters. There is an understandable lag in obtaining the results of those presentations but I am, nevertheless, setting forth data which is as current and inclusive as is possible under the circumstances."

(The text of the Department of Justice letter is omitted because it is covered in more complete detail and with later developments in a subsequent letter dated October 18, 1954.)

STATEMENT BY SENATOR HARRY F. BYRD, CHAIRMAN, JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES, IN RE FEDERAL HOUSING, SEPTEMBER 9, 1954

I urge the Justice Department to find ways to bring more Federal housing profiteers and malfeasants to justice, and I urge FHA to abandon its policy of turning the other cheek to those who have already exploited it.

This demand is prompted by recent statements by Justice Department, FHA, and the Housing and Home Finance Agency which indicate a tendency toward a soft policy which could and should subject Federal administration to national criticism.

Acting Attorney General William P. Rogers, on September 1, said there had been 74 criminal indictments, involving 136 individuals, of whom 67 had been convicted. But most of them were in the home improvement program where there were nearly 17 million loans involving $7.6 billion.

Seventy-four indictments does not appear too impressive in a program of this magnitude which was described by Assistant Attorney General Warren Olney as exploited by organized groups of swindlers, thieves, and crooked salesmen, to cheat and defraud literally thousands of small home owners, and as ruinous to legitimate dealers.

The home improvement program was only one of 14 FHA programs. In the section 608 rental housing program, where there are 7,000 insured loans involving more than $4 billion, there are windfalls running into hundreds of millions of dollars; and much of it is freely admitted in testimony by builders before congressional committees.

With respect to the 608 program cases, Mr. Rogers said loose Federal regulations, which permitted and even encouraged some of the fraudulent practices, often foreclose criminal action, and the statute of limitations is a bar to many possible prosecutions.

The FHA on June 11 announced it had certified to the Justice Department more than 200 windfall corporations with FHA-insured loans in excess of project costs. While Mr. Rogers now indicates some of those guilty of 608 fraud will go free, the FHA on August 1 was reported as having adopted a policy of doing more business with some companies which had already taken it for windfalls.

In the same statement of June 11, the FHA said "certain promoters were aided and guided by former top FHA officials in windfall practices."

Mr. Albert M. Cole, Housing and Home Finance Agency Administrator, in a letter to me dated August 13, said the FHA Legal Division, as headed by Burton C. Bovard, now discharged, "failed to use its influence upon the Commissioner and other officials of FHA to halt abuses by builders." In the same letter Mr. Cole invited my attention to questions directed to Clyde L. Powell, discharged Rental Project Commissioner, as to whether he overrode FHA State office vetoes on loan insurance commitments. The questions were unanswered by Mr. Powell who took the fifth amendment.

A dozen top officials of FHA have been dismissed since the housing scandals were forced into the open last April, but none of those dismissed from the Washington headquarters was included on the Justice Department list of those indicted.

I communicated with Attorney General Herbert Brownell April 27 relative to prosecution of these housing cases, and on May 1 he replied that action was being taken. It is hoped that the next progress report by the Department of Justice will be more reassuring than the September report by Mr. Rogers, and it is to be hoped that a way will be found to reach the 608 cases.

I have asked Mr. Cole, in a letter of August 6, to confirm or deny the report that FHA is dealing again with windfall builders, but to date there has been no reply. In justice to all the conscientious builders, the buyers and renters of FHA housing, and the taxpayers, such a policy should not even be considered.

I have repeatedly called for the prosecution of Mr. Powell and all the others who allowed or participated in the scandalous housing practices, but to date no top official has been indicted.

Personally, I sponsored amendments to tighten up the new housing legislation. Some of the amendments were rejected, and others were watered down.

In all, there are nearly twoscore Federal housing programs—in FHA, PHA, slum clearance, veterans, military, Interior, Agriculture, etc. They represent fantastic sums of money. In the past 15 years they have involved some $60 billion in grants, direct loans, guaranteed loans, insured loans, direct appropriations, etc.

They constitute an awful temptation to those who would turn them into a den of thieves.

Halfway measures will not protect them.

DEPARTMENT OF JUSTICE,
Washington, October 18, 1954.

Hon. HARRY F. BYRD,
Chairman, Joint Committee on Reduction of Nonessential Federal Expenditures, United States Senate, Washington, D. C.

DEAR SENATOR BYRD: I refer to your letter of September 7, 1954, in which you expressed a desire to be kept advised of further progress in the Federal Housing Administration matters in the Department.

I am enclosing copies of press releases of the Department of Justice dated September 1, September 20, and October 6, 1954. I am also enclosing a copy of the press release from the Housing and Home Finance Agency dated September 13, 1954, in the event you have not received a copy of Deputy Administrator William F. McKenna's report.

I appreciate your interest and assure you that I will continue to keep you advised of the progress in the Federal Housing Administration program.

Sincerely,

WARREN OLNEY III,
Assistant Attorney General.

DEPARTMENT OF JUSTICE RELEASE OF SEPTEMBER 1, 1954

Acting Attorney General William P. Rogers announced today that 74 criminal indictments have been brought during 1953 and 1954 in Federal Housing Administration cases involving 136 individuals, of whom 67 have been convicted. Most of these criminal offenses occurred prior to 1953.

A Department of Justice summary showed the majority of cases involve falsified loan documents in FHA's title I home-improvement-loan program. Others include corruption of Government officials, mail fraud, and violation of banking laws.

"The statistical study shows a vigorous and continuing effort by the Department to protect both the interests of the Government and the homeowner," Mr. Rogers said.

The work of the Justice Department involves both the Criminal Division, under Assistant Attorney General Warren Olney III, and the Civil Division, under Assistant Attorney General Warren E. Burger.

The Department has under way 39 foreclosures on defaulted housing projects amounting to $32,089,476 in FHA-insured loans.

Mr. Rogers stressed that the Department and the Federal Bureau of Investigation, also are cooperating closely with the Housing and Home Finance Agency and the Internal Revenue Service.

"Early in 1953, we became aware of the many complaints from many localities involving vicious practices to victimize both homeowners and the Government," Mr. Rogers said.

"In July 1953, the Federal Bureau of Investigation was instructed to conduct a survey to determine the extent of the fraudulent practices. An analysis by Department lawyers of its report convinced us that thousands of homeowners had been taken in by confidence men principally during the peak years of this program from 1946 through 1952.

"In many cases no Federal law was violated. It became clear that neither local officials nor the FHA, which had investigative jurisdiction, could cope with the mount-

ing flood of complaints. Therefore, Attorney General Herbert Brownell, Jr., after consultation with Housing and Home Finance Agency Administrator Albert M. Cole, requested the FBI in April 1954 to assume primary investigation of all allegations of violations of the Federal criminal statutes arising in connection with FHA operations.

"Since then, several hundred such investigations have been initiated. In the rental housing field, the so-called 608 cases, it was found that criminal action often was foreclosed by the fact that loose regulations permitted and even encouraged some of the fraudulent practices. The statute of limitations of 3 years also is a bar to many possible prosecutions."

Most criminal prosecutions to date have been brought under section 1010 of title 18 (the Criminal Code) of the United States Code. That statute basically makes it a crime knowingly to make or pass false loan documents with the intent that the loan shall be offered to FHA for insurance.

Cases under section 1010 include "improvements" on nonexistent houses; loans for improvements never made; loans diverted to such uses as paying for new autos or alimony or repaying gambling debts, and cash rebates to the home owners.

Some activities violate local laws and local officials are informed of all complaints for this reason.

In title I cases, there are five basic documents in which falsification has been found:

1. Construction contract: The quantity and type as well as the contract amount.

2. Credit application: Name of borrower or address fictitious, or name inserted without knowledge of borrower; false statistics on borrower and his credit rating or debts; falsification concerning property or fact property was unfinished; falsification of use for loan money.

3. The note: Forgery of borrower's signature.

4. Completion certificate: Forgery of home owner's signature; or false statement by dealer that signatures are genuine, that work was entire consideration of loan, that borrower has not been promised rebate or bonus and that certificate made after work done.

5. Down payment certificate: A 10 percent down payment was required formerly and dealer often induced borrower by making down payment himself while certifying that borrower made it.

To fall within section 1010, the spurious document must be accepted by the bank as an inducement to making the loan. A common requirement in this category is a commercial credit report and in at least one series of cases under investigation, a credit agency was created by the salesmen for the sole purpose of manufacturing fictitious credit reports.

In cases when the homeowner has been victimized into making the false documents under inducements of the salesmen, the Department, wherever possible, has attempted to protect the owner and prosecute only the salesmen and dealers as the actual perpetrators of the fraud.

Common practices of unscrupulous salesmen include the model-home approach, where the victim is assured his home will serve as an advertising model and that he will receive special rates, bonuses from future sales; talking the victim into signing an extra set of loan papers which the salesman then uses to make a fraudulent loan for nonexistent improvements, or inducing the homeowner to make a loan in a fictitious amount in excess of the costs involved.

Some notorious criminals and confidence game men have operated in this field, including Stanley Clifford Weyman, a man with a long criminal record who is involved in title I cases in both New York City and Brooklyn.

Many cases under investigation or in prosecution include former public officials. The former executive director of the Jersey City Redevelopment Agency, Bernard F. Kenny, is charged with concealing his interest in a firm doing business with that local slum-clearance agency from the Housing and Home Finance Agency.

Frederick Carpenter, former FHA director in Puerto Rico, is now being tried on a charge that he conspired with Leonard D. Long, the contractor, to impede the Government's program there.

Joyce A. Schnackenburg, former director of the FHA office in Grand Rapids, Mich., pleaded guilty to conspiring with his deputy for that man to receive outside compensation for normal Government services. The chief underwriter and construction-cost examiner were convicted earlier. An FHA management agent, Leon J. Smith, agent for the Woolsey Properties, Buzzards Bay, Mass., was indicted July 26, 1954, for misapplication of funds.

The summary of cases does not include complaints filed before United States judges or commissioners where the evidence involved will be presented to a grand jury in the near future.

There are additional cases in which prosecution has been stalemated because the persons charged are fugitives, all indicted under section 1010:

Newark, N. J.: Leon Harrison.
San Francisco, Calif.: W. E. Dewitt.
Baltimore, Md., Nathan Sloan.
Brooklyn, N. Y., Leonard Larkin.
Brooklyn, N. Y.: Laurence McNamara.

There are other cases not listed in which indictments were returned prior to 1953 but on which there has been action during the 1953–54 period.

These include a case such as one involved in an indictment returned at Sacramento, Calif., September 19, 1952, against Ralph Kushner, Elmer Alterman, Carl Dunbar, and Joe Schlieder. The indictment involved eight counts under section 1010 (home improvement loans) and one count under section 371 (conspiracy). The case was tried in 1953 and, on November 23, 1953, Kushner was sentenced to a total of 3 years in prison and fined $9,000. He has appealed. Dunbar and Alterman pleaded guilty to all counts. Each was sentenced to 5 years' probation. Dunbar was fined $1,500 and Alterman $750. Schlieder was acquitted.

Another pending case includes a series of indictments brought in New York City October 31, 1952, against William E. Horn, Earl P. Cannon, Samuel Hurwitz, and J. H. McQuilkin under title 18, United States Code, section 1010. The indictments were attacked and recently upheld in court but trial on the issues has not begun.

Similarly, a May 22, 1951, indictment at Newark, N. J., against James D. Post as president of the Popular Home Improvement Co. and two salesmen, Otto Krueger and Burnett Yaseen, still is under attack by defendants on grounds of legal insufficiency of the indictment.

Sections of the Criminal Code, found applicable and noted in the following listing of cases, include these sections:

371. Conspiracy.
220. Receipt of commissions or gifts by bank officials for processing loans (and other banking statutes).
656. Misapplication of funds by bank officials.
657. Misapplication of funds by FHA agents.
709. False advertisement of FHA endorsement.
1001. False statement or failure to disclose.
1012. False statement.
201. Giving a bribe.
202. Accepting a bribe.
1006. False reports by FHA employee.
1341. Mail fraud.
493. Counterfeiting notes and bonds.

Date	Place of indictment	Defendants	Notes: Violation, disposition, etc.
Mar. 23, 1953	East St. Louis, Ill., home improvement	Max D. Klahr, Byron Nugent	18 U. S. C. 1010. 8 counts.
Apr. 7, 1953	Newark, N. J., home improvement	Nicholas John Perrelli, Joseph Louis George, Douglas Vincent Kirk.	18 U. S. C. 1010. 6 counts. George and Perelli each entered guilty pleas; sentenced to 2 months. Kirk not yet tried. Kirk received a 2-year suspended sentence and 5-year probation on 1951 indictment under sec. 656.
Apr. 22, 1953	Detroit, Mich., home improvement	Georgia Gianakis, was Georgia Pete	18 U. S. C. 1010. Defendant is in District of Columbia jail, charge of embezzlement.
Apr. 23, 1953	Tampa, Fla., home improvement	John E. Fulmer	18 U. S. C. 1010. Guilty, 1 count. Sentence, July 15, 1953, 1 year.
Apr. 28, 1953	Knoxville, Tenn., home improvement	Melvin Tobias Goldberger, Square Supply Co.	18 U. S. C. 1010. 2 counts.
Apr. 29, 1953	Trenton, N. J., home improvement	Sebastian J. Schiavone, doing business as B & M Furnace Co.	18 U. S. C. 1010. Guilty plea. Jan. 25, 1954, sentenced to 1 year and 1 day, suspended, 2 years probation.
May 6, 1953	San Antonio, Tex., home improvement	Willis E. Williams	18 U. S. C. 1001 and 1010. 6 counts. Guilty plea, 1 count. Jan. 4, 1954, sentenced 2 years suspended, 3 years probation.
May 15, 1953	Brooklyn, N. Y., home improvement	Stanley C. Weyman	18 U. S. C. 1010. Found guilty and sentenced May 28, 1954 to 18 months. Earlier sentence in New York City of probation under 3 indictments then revoked and sentenced to 6 years.
June 5, 1953	Puerto Rico, personnel and mortgage insurance.	Leonard D. Long, Frederick Carpenter (former FHA director for Puerto Rico).	18 U. S. C. 371. 1 count. Trial started Apr. 6, 1954, and is continuing.
June 11, 1953	Grand Rapids, Mich., personnel	Joyce A. Schnackenberg, assistant State director, FHA, time of offense and later district director.	18 U. S. C. 371. 1 count. Plea of guilty Oct 19, 1953. Fine $5,000. (Indicted after long investigation of irregularities in which chief underwriter and construction cost examiner were convicted earlier under 18 U. S. C. 281.)
July 17, 1953	Minneapolis, Minn., home improvement	Stuart Wilson	18 U. S. C. 1001. 2 counts. Guilty plea, July 31, 1953. 18 months on 1 count, 2 years probation follows on other.
Sept. 30, 1953	Miami, Fla. (transferred to District of Columbia), home improvement.	Donald W. Benjamin, Mary Jane Benjamin.	18 U. S. C. 1001. 3 counts. Guilty pleas, Feb. 19, 1954. She sentenced 4 to 12 months. He sentenced 4 to 12 months, and placed on 2 years probation.
Do	St. Joseph, Mo., home improvement	John Nicholas Feiden	18 U. S. C. 1010. Information. Plea of nolo contendere. 1 year probation.

Date	Place of indictment	Defendants	Notes: Violation, disposition, etc.
Oct. 2, 1953	Brooklyn, N. Y., home improvement	Frederick J. Dolan	18 U. S. C. 1010. — counts. Found guilty Mar. 10, 1954. 1 year and 1 day, suspended; 3 years probation, and $1,000 fine.
Oct. 6, 1953	Oklahoma City, Okla., home improvement	E. B. Uselton, Homer Lester, Helen Lester, Leon Geeslin, W. C. Wynne, Mary Francis Ford.	18 U. S. C. 1010, 6 counts. 18 U. S. C. 371, all plead nolo contendere in November 1953, found guilty, fined as follows: Lesters, each $1,000; Geeslin, $3,000, Wynne, $4,000, Uselton, $500; Ford, $300.
Oct. 7, 1953	Los Angeles, Calif., home improvement	Winston C. Bodden, Ethel Bodden	18 U. S. C. 1010. Bodden deported Sept. 13, 1953, dismissed. Charges against Mrs. Bodden transferred to eastern district of Michigan.
Oct. 27, 1953	Sioux City, Iowa, home improvement	Ross Conklin, E. J. McLaughlin, Harry Fuhrman.	18 U. S. C. 1010. 4 counts. Guilty plea, each 1 count; other counts dismissed. Conklin, 2 years suspended, 5 years probation, $2,500. Fuhrman, 1 year suspended, 3 years probation. McLaughlin, 1 year suspended, 4 years probation.
Mar. 22, 1953 Nov. 2, 1953	Washington, D. C., home improvement	John Middlebrooks	18 U. S. C. 1010 (3 indictments). Middlebrooks hospitalized.
Nov. 6, 1953	Fort Worth, Tex., home improvement	John Hughes Rennie, Geraldine Rennie, James Williams.	18 U. S. C. 1010 and 18 U. S. C. 371. 2 counts. Guilty plea Feb. 26, 1954, John Rennie and Williams (Geraldine Rennie dismissed). Rennie sentence 2 years probation; Williams, 15 months, suspended, 2 years probation.
Nov. 10, 1953	Augusta, Ga., prevailing wage certificate	Carter Electric Co., C. E. Carter	18 U. S. C. 1010. 1 count. False wage statement, Maxwell Apartments, Augusta.
Nov. 20, 1953	Portland, Oreg., home improvement	John Milton Owen	18 U. S. C. 1010. 9 counts. Guilty June 1, 1954, after trial. 4 years.
Nov. 24, 1953	Baltimore, Md., miscellaneous	Harry Bart	18 U. S. C. 1001. 2 counts. False statement to investigators.
Do	do	Albert Stark	Do.
Do	do	J. Hamilton (former FHA employee)	18 U. S. C. 1001. 1 count. False statement to investigator.
Do	do	Raymond Miskimmon (former FHA employee).	Do.
Dec. 23, 1953	Los Angeles, Calif., home improvement	Raymond Hart, Martin Sorriano	18 U. S. C. 1010. Sorriano acquitted on all 5 counts. Hart trial set Sept. 7, 1954, on 4 counts.
Jan. 11, 1954	Houston, Tex., home improvement	Floyd A. Johnson	18 U. S. C. 1010. 5 counts. Guilty plea to 1 count. After restitution, 6 months suspended, 3 years' probation with supervision imposed on Apr. 7, 1954.
Jan. 20, 1954	New York City, N. Y., home improvement.	C. & S. Home Builders, Inc., Marie Castorina, Leonardo Castorina.	18 U. S. C. 1010, 3 counts. 18 U. S. C. 371, 1 count.
Jan. 25, 1954	Miami, Fla., home improvement	Virginia Scott, Jacques Faden	18 U. S. C. 1010.
Feb. 3, 1954	San Francisco, Calif., home improvement	Arnold Wool, James N. Stefan, Nathaniel H. DeShong, Ben Zuckerman.	18 U. S. C. 1010, 18 U. S. C. 371, all guilty. Sentences June 4, 1954: Wool, 18 months; DeShong, 18 months; Stefan, 6 months; Zuckerman, 6 months.
Feb. 24, 1954	Little Rock, Ark., home improvement	Samuel L. Kay, was Kasnezer, Kaline	18 U. S. C. 1341, 18 U. S. C. 2314, 1 count each. Guilty, June 16, 1954. 3 years plus 5 years' probation to begin at end of imprisonment.
Feb. 25, 1954	Kansas City, Mo., home improvement	Peoples Bank of Kansas City, Mo	18 U. S. C. 1010. 10 counts. Guilty plea Mar. 12, 1954. $3,000 fine imposed on bank for false insurance report.
Feb. 26, 1954	Birmingham, Ala., home improvement	Beatrice Partee	18 U. S. C. 1010. 50 counts. Guilty plea, 16 counts, May 14, 1954. Probation for 3 years.
Do	Houston, Tex., home improvement	Harvey Cochran	18 U. S. C. 1010. 7 counts. Convicted May 19, 1954, on 6 counts. Sentence: 2 years, $1,000, both suspended for 5 years' probation with strict supervision.
Do	Birmingham, Ala., home improvement	James W. Huguley, Jr.	18 U. S. C. 1010. 9 counts. Guilty plea May 10, 1954. 18 months suspended, 3 years' probation.
Apr. 7, 1954	Los Angeles, Calif., home improvement	Hyman W. Langsam, David Brown, Morris J. Mirkin, Curtis S. King, David Habif.	18 U. S. C. 1010, 18 U. S. C. 371 (dismissed). Langsam guilty plea 2 counts; sentence July 26, 1954, 1 year suspended, 4 years' probation $600. Brown, Habif guilty plea 1 count, each 1 year suspended, 3 years' probation, $300. Mirkin dismissed as to all counts. King believed to be an alias of another defendant and is a fugitive.
Do	do	Morris J. Mirkin, Charles Harry, Charles Howard, Emanuel Levine, Mike Musich, Arthur Sparber, Lou Barash.	18 U. S. C. 1010, 18 U. S. C. 371 (dismissed). Mirkin, guilty plea, 2 counts of 1010, 6 months, 2 years suspended, $1,000. Barash, Harry, Levine, Sparber, guilty pleas 1 count; each 1 year suspended, 3 years probation, $300. Howard and Musich fugitives.
Apr. 15, 1954	do	Edward Goldstein, Ray Grant, Michael Nadler, Marvin Resnick, Sidney Winston.	18 U. S. C. 1010, 18 U. S. C. 371. Goldstein, Resnick, and Winston pleaded guilty to 2 counts of 1010 and Grant and Nadler 1 count; all sentenced to 5 years probation. Conspiracy count dismissed.
Apr. 21, 1954	Miami, Fla., home improvement	Roy Donald Johns, Jr., Ann Johns	18 U. S. C. 1010 and 18 U. S. C. 2. Trial May 14, 1954. He convicted 1 count; 3 months. She guilty plea 1 count; 3 months to begin at end of State sentence.
Apr. 27, 1954	Wilmington, Del., personnel	Benjamin Glazer	18 U. S. C. 201. 1 count. Offer of bribe. A plea of not guilty entered.
Apr. 28, 1954	Los Angeles, Calif., home improvement	Eugene F. Girard, Murray Kaye, M. Eddie Males, A. H. Portnoy, Arnold G. Katz.	18 U. S. C. 1010, 8 counts. 18 U. S. C. 371, 1 count. Kaye pleaded guilty June 14, 1954, to 2 counts, 5 years' probation. Others set for trial Oct. 26, 1954.
Do	San Francisco, Calif., home improvement	Atlas Enterprises, Gordon Brown, R. A. Brown, Howard Wardle (management), and 9 salesmen.	18 U. S. C. 1010. 23 counts. Browns each found guilty, 8 counts. G. Brown, 3 years' probation, $2,000. R. Brown, 3 years' probation, $1,000. Wardle acquitted. 9 salesmen pleaded guilty July 12, 1954: Angelo Nigro, $100, 3 years' probation; Pete Romero, $200, 3 years' probation; John F. Cross $200, 3 years' probation; Forrest Scott, $100, 4 months; Roy W. Frederickson, $500, 1 year; Joseph Bonin, $500, 10 months; Pat Johnson, $100, 2 years' probation; Angelo Champi, $100, 2 years' probation; Anthony Corce, $250, 3 years' probation.
Apr. 29, 1954	Bay City, Mich., home improvement	Nathan Berg, Max Ellis, David Pollick	18 U. S. C. 1010, 15 counts. 18 U. S. C. 371, 1 count.
Apr. 30, 1954	Puerto Rico, miscellaneous	Harry A. Denton	18 U. S. C. 1503. Charge of attempting to influence witness in Long-Carpenter trial.
May 6, 1954	Dubuque, Iowa, home improvement	E. L. McCormack	18 U. S. C 1010. 2 counts. Guilty, June 6, 1954. 1 year suspended, 2 years' probation, reimburse homeowner $247.
May 11, 1954	Newark, N. J., home improvement	James O'Connor	18 U. S. C. 1010. 7 counts.
Do	do	Vincent C. Ruperto	18 U. S. C. 1010. 4 counts.
Do	do	Martin J. Ward	Do.
Do	do	Mortimer L. Schultz, doing business as Mortimer L. Schultz Co. and Robert L. Manion.	18 U. S. C. 371. 1 count.
Do	do	Mortimer L. Schultz	18 U. S. C. 1010. 26 counts.
Do	do	Robert L. Manion	18 U. S. C. 1010. 11 counts.
Do	do	Glenn C. MacPherson	18 U. S. C. 1010. 4 counts.
May 13, 1954	Omaha, Nebr., home improvement	Don F. Pollock, Joseph Titze	18 U. S. C. 1010. 2 information with 30 and 29 counts, respectively. Pollock nolo contendre to 11 counts; sentenced 1 year, 1 day, fined $1,100 on June 17, 1954. Titze nolo contendre to 8 counts; 3 years probation on June 17, 1954.
May 23, 1954	Washington, D. C., home improvement	Reva Peckelis, Charles Lawrenson	18 U. S. C. 1010, 1 count; 18 U. S. C. 371, 1 count.
June 2, 1954	Newark, N. J., home improvement	Alex Zuk	18 U. S. C. 1010. 1 count.
June 8, 1954	Houston, Tex., home improvement	James Lester Bennett	18 U. S. C. 1010. 16 counts.
June 18, 1954	South Bend, Ind., home improvement	Jerome E. Doelle	18 U. S. C. 1010. 4 counts. Doelle is fugitive.
June 22, 1954	Albany, N. Y., home improvement	David Morris, Ruby Korytowski	18 U. S. C. 1010. 3 counts. He pleaded guilty and sentenced July 12, 1954, to 18 months. She ill.
Do	Carson City, Nev., home improvement	C. H. Elstner, Willard C. Witt, Bessie E. Witt.	18 U. S. C. 371. Conspiracy to violate 18 U. S. C. 1010.
June 23, 1954	Newark, N. J.: Slum clearance	Bernard F. Kenny	18 U. S. C. 1001.
Do	do	Bernard F. Kenny, George J. Masumian, Anthony J. Mascola, Joseph Comparetto.	Do.
July 1, 1954	Buffalo, N. Y., banking violation and home improvement.	William Koetzle	18 U. S. C. 656, 26 counts; 18 U. S. C. 1010, 24 counts. Guilty plea to 1 count under each section, Aug. 2, 1954. Sentence deferred.

Date	Place of indictment	Defendants	Notes: Violation, disposition, etc.
July 2, 1954	Salt Lake City, Utah, home improvement	Harry Erick Grass, with numerous aliases	18 U. S. C. 1010. Information in 4 counts. Entered a plea of guilty.
July 7, 1954	Detroit, Mich., home improvement	John Fredericks doing business as R. M. Sales Co.	18 U. S. C. 1010. 8 counts. Fredericks fugitive.
July 26, 1954	Miami, Fla., home improvement	Charles Harris Markheim	18 U. S. C. 1010. 1 count information filed.
Do	Boston, Mass., personnel	Leon J. Smith, FHA management agent	18 U. S. C. 657. 1 count. Embezzlement of funds as agent for Woolsey Properties, Buzzards Bay, Mass.
July 28, 1954	Des Moines, Iowa, banking violation	William F. Haakinson	18 U. S. C. 220. 5 counts.
Do	Des Moines, Iowa, home improvement	First Federal State Bank, Raymond B. Mulder, William F. Haakinson, Glen H. Smith, Inc. (formerly Midtown Motors, Inc.), Fred F. Parkhurst, Eldon L. Neal, Thomas J. Watson.	18 U. S. C. 371, 2 counts; 18 U. S. C. 1010, 20 counts. Use of loans for auto downpayments.
July 30, 1954	Houston, Tex., home improvement	Jay Wayne McVeagh	18 U. S. C. 1010. Information.
Aug. 2, 1954	Sacramento, Calif., home improvement	Marcella Ellis, Guy Harold McHenry	18 U. S. C. 1010, 2 counts; 18 U. S. C. 371, 1 count.
Aug. 3, 1954	Houston, Tex., home improvement	Stanton B. Danilow	18 U. S. C. 1010. 21 counts.

DEPARTMENT OF JUSTICE RELEASE OF SEPTEMBER 20, 1954

Attorney General Brownell, Jr., announced today that he has directed United States Attorney Leo A. Rover, of the District of Columbia, to conduct a special grand-jury investigation into bribery and other criminal conduct in the Federal housing program.

The instructions to Mr. Rover provided specifically that he present evidence of the activities of Clyde L. Powell, former Assistant Commissioner of the Federal Housing Administration.

Powell, who entered FHA in 1938, rose to Assistant Commissioner despite knowledge of the former administration of an arrest record, including conviction for jewel theft.

While Assistant Commissioner, Powell had charge of the rental housing program which operated from 1946 to 1950. This program resulted in windfalls to speculators exceeding $51 million alone in the 285 cases reviewed by the Special Investigations Office set up by the present administration in FHA.

No date has been set for the opening of the special grand-jury investigation in the District of Columbia. However, empaneling of the special grand jury, authorized by Chief Judge Bolitha J. Laws, of the Federal court, is expected shortly.

The Attorney General also said that Assistant Attorney General Warren Olney III, head of the Department of Justice's Criminal Division, will this week call upon United States attorneys in all other districts of the Nation to present to grand juries as soon as material is available full testimony concerning criminal conduct uncovered by the Administration's investigation in their districts.

The Department reported previously that it began to receive widespread complaints in FHA matters early in 1953. The FBI was instructed to survey the situation and, after consultations between Mr. Brownell and Administrator Albert M. Cole, of the Housing and Home Finance Agency, the FBI was requested in April 1954, to assume primary investigative responsibility of all allegations of violations of Federal criminal statutes arising in connection with FHA operations.

Summaries of Department activities during 1953 and 1954 to mid-August showed foreclosure proceedings ordered on 39 housing projects involving $32,089,476 in FHA-insured mortgages and 74 criminal indictments involving 136 individuals, of whom 67 had been convicted. Most of the criminal cases involved falsified loan documents in the home-improvement program but others included corruption of Government officials, mail fraud, and violation of banking laws.

Referring to the last week's final report of Deputy Administrator William F. McKenna, of HHFA to Mr. Cole on the special investigation, Mr. Brownell said:

"It shows how the huge Federal agency upon which the Nation depended for stimulating home building and housing construction became riddled with corruption under the prior administration."

The Attorney General said also that the program directed by Powell had resulted in exploitation both of the Government and the tenants of the projects in the form of financial "windfalls without precedent" to the promoters.

In connection with the inquiry by the grand juries, Mr. Brownell said:

"The preliminary work done by congressional committees and by the HHFA has furnished a vast amount of material indicating maladministration of these laws. The Justice Department has and will give priority for such study and action as is called for and will vigorously prosecute all offenders.

"While the majority of the employees were loyal and faithful, there was disintegration of personal integrity among others in the housing program."

Mr. Brownell called attention to the HHFA report that the practice of receiving gratuities from contractors and others doing business with the agency was almost an accepted norm of operation in many FHA offices.

Mr. Brownell said that all investigative reports of the FBI and of the HHFA are being and will be forwarded as rapidly as possible to each United States attorney where jurisdiction lies.

Each United States attorney also will be instructed to present any evidence arising originally in his office.

Mr. Brownell emphasized that the grand-jury inquiries are not limited solely to possible bribery, but to violations of any appropriate laws in the Federal Criminal Code in administration of the Federal housing programs.

DEPARTMENT OF JUSTICE RELEASE OF OCTOBER 6, 1954

Attorney General Herbert Brownell, Jr., announced today the creation of a new unit in the Criminal Division of the Department of Justice in order to speed handling of the vast amount of investigative material recently referred to the Division in connection with FHA housing scandals.

Mr. Brownell simultaneously announced that Mr. Max H. Goldschein, a special assistant to the Attorney General, was being assigned to work with United States Attorney Leo A. Rover in the special grand-jury investigation opening today in the District of Columbia. Mr. Goldschein also will coordinate the inquiry here with grand-jury investigations in other Federal districts.

The Attorney General directed the initiation of the inquiry here September 20. The special grand jury will inquire into bribery and other criminal conduct in the Federal housing program and specifically into the conduct of Clyde L. Powell, who had charge of the rental housing program which operated from 1946 to 1950 and resulted in windfalls to speculators exceeding $51 million alone in 285 cases reviewed by the Housing and Home Finance Agency.

The investigative reports have been coming in from the Federal Bureau of Investigation, the HHFA, and congressional committees. In each instance where criminal action appears warranted on the basis of the investigative reports the material is being transmitted to the United States attorney in the district where jurisdiction lies.

The new unit will take over work now being handled in three other units, the Fraud, Government Operations, and Common Crimes units. The new unit will be headed by Mr. Nathaniel E. Kossack, who will be assisted by Messrs. Robert J. Rosthal, Walter E. MacDonald, Reigh F. Klann, and Robert Aders. In addition, two other Criminal Division attorneys, Messrs. James J. Sullivan and Oliver O. Dibble, will be assigned to assist the new unit to prevent the building up of any backlog of cases.

Mr. Goldschein recently returned to his headquarters here after conducting a long grand jury investigation into labor racketeering in St. Louis. His work there resulted in several indictments and in cases already tried convictions have been returned by the trial jury. His first major grand jury assignment was the inquiry in 1943 into the activities of former Federal Judge Albert W. Johnson, in Scranton, Pa. He also handled grand jury investigations of Communists on the Federal payroll in Colorado and California in 1948. In 1949, he handled a grand jury investigation into organized crime in Miami, Fla., which broke up the greatest opium smuggling ring in history. In 1949 and 1950 his special grand jury investigation of organized crime in Kansas City, Mo., resulted in eight tax indictments.

In discussing his division's new unit, Assistant Attorney General Warren Olney III said the volume of housing scandal matters had been growing steadily since the Department began looking into widespread complaints early in 1953. It was then, after consultations between the Attorney General and Administrator Albert M. Cole of the HHFA, that the FBI was given primary investigative responsibility.

In the past month, Mr. Olney said, the number of cases arising in the Frauds Unit alone reached 10 to 15 daily. In addition, the Federal Housing Administration has begun referring "packages" of gratuity allegations involving FHA personnel. There have been increases not only in title I (home improvement) matters, but also in cases involving false advertising, personnel matters and fraud in connection with mortgage insurance.

Each United States attorney has previously been instructed to present to grand juries, as soon as material is available, full testimony concerning criminal conduct uncovered in the Administration's investigations in their districts.

OCTOBER 21, 1954.

Hon. HARRY F. BYRD,

Chairman, Joint Committee on Reduction of Nonessential Federal Expenditures, United States Senate, Washington, D. C.

DEAR SENATOR BYRD: This will acknowledge receipt of your letter of October 6, 1954,

forwarding additional material concerned with the operations of the Federal Housing Administration.

In view of your expressed desire to keep informed concerning the Department's progress in these FHA matters, I am enclosing two additional Department press releases which are concerned with Federal Housing Administration matters.

I wish again to thank you for your interest and cooperation in furnishing the Department with the Federal Housing Administration information which comes to your attention. These matters are receiving continuous consideration in the Department.

Sincerely,

WARREN OLNEY III,
Assistant Attorney General.

DEPARTMENT OF JUSTICE RELEASE OF OCTOBER 13, 1954

Assistant Attorney General Warren Olney III said today that more than 600 alleged criminal matters stemming from prior management of the Federal Housing Administration currently are under active investigation by the Department of Justice.

Mr. Olney made the statement in discussing FHA matters with United States attorneys attending a 3-day working conference at the Department of Justice.

He reiterated his request that the United States attorneys take prompt and vigorous action on every housing matter within their districts, and reported:

"Ten to fifteen new cases are being referred to the Criminal Division every day. The majority of them are from the FBI. However, we still are receiving cases from the FHA and, in addition, we now are receiving referrals from the Senate Banking Committee. Naturally, as soon as possible, those cases are referred to you people who must complete the job in the field."

Mr. Olney reviewed the progress of the Department in the housing matters. He pointed out that a review of the situation, based on complaints, was ordered early in 1953; that the FBI made an overall study of the extent of the situation, and, after conferences between the Department and the Housing and Home Finance Agency, the FBI was given primary investigative responsibility in April 1954.

"Since last April, convictions of 49 individuals have been reported to the Department and, at the end of September, there were indictments reported pending against 125 individuals," Mr. Olney said.

He said the bulk of early cases involved falsification of documents under the title I home-improvement program but that the pattern is changing as more misconduct is uncovered in former management of FHA.

"The section 608 program involving multiple unit rental construction and which ended in 1950 has been found shot through with bribery and criminal corruption," Mr. Olney said. "The failure of prior management in FHA to discern and act against these practices may bar prosecution but it is essential that we go ahead as rapidly as possible with grand jury investigations to develop all the facts."

He said the complete documentation of all cases has a threefold purpose:

1. To uncover cases where criminal prosecution is warranted and can be undertaken.

2. To develop facts for appropriate administrative action and identify recipients of gratuities still in Government employment.

3. To provide full and accurate data upon which the present administration can act to make corruption impossible in the future.

ADDITIONAL DEPARTMENT OF JUSTICE RELEASE OF OCTOBER 13, 1954

Assistant Attorney General Warren E. Burger today announced formation of a special unit under his direction to coordinate all civil-legal matters arising from investigations of the Federal Housing Administration.

The unit is composed of representatives of the Civil Division, which Mr. Burger heads, and four other divisions of the Department of Justice. It parallels and is working closely with a similar unit established to coordinate criminal matters arising from the FHA studies.

Mr. Burger made his announcement in discussing Civil Division work at one of the early sessions of the 3-day conference of United States attorneys which opened at the Department today.

A discussion of housing investigations and prosecutions was a major item on the agenda. Individual conferences with Washington staff attorneys also were scheduled for those United States attorneys having special FHA problems in their districts.

The special civil unit is designed to effect speedy analysis of the vast amount of material being assembled as a result of Senate committee hearings, the Housing and Home Finance Agency's own study of former FHA management and investigations by the Federal Bureau of Investigation.

Mr. Burger said particular attention will be given to circumstances leading to default in the past 2 years of over $40 million in FHA-insured mortgage loans on title 608 housing projects. The title 608 program was directed by Clyde Powell, former Assistant Commissioner of FHA whose activities are now under study by a special grand jury in the District of Columbia.

Commenting on the title 608 projects, Attorney General Herbert Brownell, Jr., said:

"From a preliminary study of what appear to be typical cases, it is plain that the gross maladministration of this program resulted in having the tenants pay excess rents based not on the cost of construction but on the artificially inflated mortgage loan. In many cases the promoters obtained mortgages, insured at Government expense, for as much as 20 and 25 percent over the cost of the project. Thus the tenants, who were supposed to be the beneficiaries of this program, became its victims and collectively they paid out millions to make possible the vast windfall profits. The good intentions of Congress were thereby distorted by those entrusted with the administration of the program."

Mr. Burger reported that Mr. Brownell has instructed the special unit to make a particular study of rent levels fixed in relation to the mortgage debt where that debt exceeded the cost of construction.

The special unit under Mr. Burger includes: Charles E. Rice, Tax Division; William J. Lamont, Office of Legal Counsel, John J. Cain, Lands Division; Philip Marcus, Antitrust Division, and Carl Eardley, Marvin C. Taylor, George F. Foley, and Lino Graglia, all Civil Division.

Mr. Burger pointed out that the Civil Division has been studying various civil aspects of the housing investigations for some time; that a number of foreclosure actions have been filed, and that several civil suits will be filed in the near future.

He added that where FHA-insured mortgages on 608 projects are defaulted, the Government will incur a direct loss if the foreclosure sale brings a price less than the amount of the mortgage debt. Close examination is being made of such cases for this reason, he said.

The head of the Civil Division told the United States attorneys he hoped the increasing number of housing matters could be handled in such a way that they would not impede a successful program to reduce the inherited backlog of civil cases. He reported that the backlog totaled about 5 years early in 1953. He said it had been reduced to about one-third since then.

Mr. Burger also discussed plans to delegate additional authority to United States attorneys in litigation in order further to reduce paperwork and speed the handling of cases.

THE VARIOUS ELEMENTS OF THE FIGHT AGAINST COMMUNISM

Mr. FLANDERS. Mr. President, I wish to take advantage of the 2-minute rule to express my appreciation for the address delivered yesterday by the Republican leader, the Senator from California [Mr. KNOWLAND]. I had been in attendance all day, and left the Chamber before he began to speak. It seems to me, as I have read the address in the RECORD and in the press, that the distinguished majority leader has set in proper perspective the various elements of the fight against communism. I am not sure that he will follow this statement, and I do not ask him to express himself about it, but to my mind the serious present dangers are those which fall within the purview of the Committee on Foreign Relations and the Committee on Armed Services. I trust that no particular interest of other Senators in the possibility of subversion in the Government in the present or in the immediate future will misdirect our attention from the present dangers to which we must apply all the information we can get and all the judgment we can muster.

THE FOREIGN POLICY OF THE ADMINISTRATION

Mr. HENNINGS. Mr. President, yesterday afternoon the country and the Senate were witness to a rather extraordinary occurrence. In order to view this incident in perspective, we must recall that on November 8, just 1 week before, the distinguished majority leader rose on the Senate floor and, in a statesmanlike appeal to all Members of the Senate, asked that Senators refrain from interjecting matters extraneous to the current debate on the motion to censure the junior Senator from Wisconsin [Mr. MCCARTHY]. During that week, I think almost without exception, Senators complied with the request of the majority leader. The debate has been vigorous, and during the past week as I heard the members of the select committee abused in what one of its members referred to as fantastic and foul language, and its members subjected to what its chairman aptly called indecencies, I have waited with patience in anticipation of a stirring speech by the majority leader in defense of the select committee, and, of course, more particularly, in defense of the three members of the select committee who agreed to serve out of deference to his wishes.

So, when the majority leader yesterday rose to request the Senator from Utah [Mr. WATKINS] to yield to him, I thought the moment had come for which I had been waiting. The Senator from Utah had waited most patiently throughout the long day for a chance to defend his honor and integrity.

The majority leader, however, rose not to defend the Senator from Utah and his colleagues on the select committee from

abuse, but to talk on a matter extraneous to the debate. He rose, it appears, to take issue with the foreign policy of the present administration as clearly enunciated by President Eisenhower within the past month. He challenges the concept of peaceful coexistence, and asks if it is synonymous with what he calls atomic stalemate. He went on to say that the country is faced with a clear and present danger.

Mr. President, there is no question that the country is faced with a present danger in the aggression and treachery of the Russian Communists. I beg to suggest that this is known by every schoolboy in the land, and, therefore, I think it follows that the danger is not only a present one but is clear. The distinguished majority leader rose to ask that the Congress and the American people reexamine our foreign policy and our defense policy. I beg to suggest that these policies ought always to be under review, and so long as the Democratic Party remains a vigorous party, these policies will continue to be under review.

The process of reviewing foreign policy should not include spreading confusion and doubt as to what our foreign policy is, but this, I am constrained to say, is what I think has resulted from yesterday's remarks by the distinguished majority leader. If he does not want coexistence, what does he want? Does he want war? Let me suggest to him that in the end, war means the devastation which would result from the use of hydrogen bombs.

Actually, of course, our present condition is not peaceful coexistence, but a condition neither of peace nor of war. This state of tension is not of our own making. It is a product of Communist design and aggression. But in order to succeed in our struggle with the diabolical Russian tyranny, we must recognize the situation as it is. In our efforts to coexist we must not lose sight of the fact that within the next few years, the Russians will attain the means, by long-range bombers, by hydrogen bombs, and by guided missiles, to cause terrible devastation, and perhaps even destroy our capacity to wage war. The majority leader said as much in his statement yesterday. There is nothing new in this.

Our realization of this grim fact is crucial to a policy of coexistence. In other words, we possibly have a few years yet before us in which we can restrain the Russians by constantly developing our power to protect ourselves and by keeping ready the means of overwhelming retaliation. At the same time, we must find a way of persuading them to submit to control by the United Nations. Only in such manner can we secure the free world against aggression and work gradually toward the liberation of enslaved peoples. This seems an impossible task, but it is also our only choice. This, I think, is what President Eisenhower means by peaceful coexistence. In order to accomplish these goals of foreign policy, our Government should act in every way so as to strengthen the prestige of the United Nations, making it an ever more effective instrument for the settlement of international conflicts and for the maintenance of peace. This implies that we cannot think of withdrawing from the United Nations when decisions go against us.

We Americans must face these implacable problems of foreign policy. If we attempt to escape them by retreating into our own shell or through some other sham remedies, ruin will be our destiny. Only in courage and honesty lies greatness. We have a choice; let us not falter.

Mr. KNOWLAND. Mr. President, appropos of the remarks of the Senator from Missouri [Mr. HENNINGS], I do not intend to prolong the debate, but it is quite obvious that the Senator has not done what a good many other Members on the minority side have done, namely, read the CONGRESSIONAL RECORD. If the Senator from Missouri had done so he would have known that on last Friday, the 12th of November, the majority leader made a statement on the floor of the Senate relative to the appointment of the select committee and the confidence he had in it. He reiterated the statement he had made earlier. That statement was commented on favorably by the distinguished minority leader, the spokesman of the minority party.

At a later date I shall be prepared to discuss further, if I believe it is necessary to do so, the subject matter of the brief remarks I made on the floor of the Senate late yesterday afternoon. They were made when the Senator from Utah [Mr. WATKINS] had indicated that he did not care to make his remarks at that late hour and prior to adjourment. There was never any agreement that there should not be on the floor of the Senate discussion of subjects extraneous to the pending resolution, if conditions in the world or in the country should warrant such discussion. The only understanding was that we would not take up legislative matters during the time we had before the Senate the pending business.

Mr. HENNINGS. I was present in the Chamber when the Senator from California made his speech last evening, and I had that situation in mind when I made my remarks.

DR. FREDERICK BROWN HARRIS

Mr. JOHNSTON of South Carolina. Mr. President, 30 years ago today there came to the Nation's Capital a relatively young pastor. He accepted the great responsibility of becoming the minister at one of the oldest and most historic churches in Washington. At the old foundry in Georgetown, Henry Foxhall helped to forge the iron and the steel to withstand the attack of the British in the War of 1812. In honor and memory of the importance of that undertaking, Foundry Methodist Church of Washington, D. C., was established. To that end it has since been dedicated. The chief mechanic of those operations now for nearly a third of a century has been Dr. Frederick Brown Harris, the beloved Chaplain of the Senate.

Now is neither the time nor the place to recapitulate his services to God or his fellow man. I merely wish for a moment to felicitate him for the great services he has rendered this community at large and the Members of the United States Senate. At a later date, no doubt, appropriate exercises may be held to commemorate his many achievements in the chosen field of his life's glorious work. As a man of letters and as an exponent of the Christian faith, few are his peers. His long tenure of faithful service at one great church, a period equivalent to five full terms in this body, is convincing testimony of the worth, the admiration and esteem in which his flock hold their shepherd. That he has been called to serve the Senate under changing administrations is proof of our respect for and appreciation of him.

Whether in high or low place, whether collectively or individually, service to his fellow man through a daily application of the virtues of the Christian faith has been his shield and buckler. It is my fervent prayer, in which, I am sure, my colleagues heartily join, that Dr. Harris may live many, many years more to continue his great work, embodied in the lines of the old hymn:

A charge to keep I have,
A God to glorify.
A never dying soul to save
And fit it for the sky.

Dr. Harris, we congratulate you today on the 30th anniversary of a life so well spent in our midst.

NOTICE OF HEARING ON CERTAIN NOMINATIONS

Mr. HICKENLOOPER. Mr. President, I desire to give notice that a meeting of the Senate section of the Joint Committee on Atomic Energy has been called for next Thursday morning, the day after tomorrow, at 9 o'clock. It will meet first in the joint committee room, room F–83 in the Capitol, for the purpose of considering the nominations of Dr. Willard F. Libby and Dr. John Von Neumann to be members of the Atomic Energy Commission. I give notice at this time so that anyone who is interested in these nominations may appear and express himself, or appear merely because of his interest in the hearings.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. I yield.

Mr. ANDERSON. Is it the expectation of the chairman to bring the nominations before the Senate and seek confirmation of those nominations at this session of the Senate?

Mr. HICKENLOOPER. My expectation is that the nominations will be considered by the Senate section of the Joint Committee on Atomic Energy, which is the proper committee to consider the nominations. Future action will then depend on what action the committee takes. If the committee should recommend Senate confirmation, it would be my hope that such confirmation could be had. If the committee should take other action, I presume we would be bound by that action.

Mr. ANDERSON. I understood that the nominations would not be brought before the Senate at this session. Can

the majority leader or the minority leader give us any help in that respect? I am curious to know whether any action will be taken on the nominations by the Senate at this session.

Mr. KNOWLAND. Of course, the minority leader can speak for himself, but I believe the general understanding, after consultation with the minority, is that such a matter can be taken up and hearings held during a time when the Senate is not in session. In other words, if the hearings could be held from 9 to 10 or to 11 o'clock in the morning, so that there would be no interference with the sessions of the Senate, and if nominations were reported from a committee with support from both sides of the aisle, we could dispose of the nominations after we had disposed of the pending business before the Senate. I hope that some of the noncontroversial nominations may be taken up in that way.

I think I made it clear in discussions that in the case of controversial nominations, or when there is substantial opposition to them on the other side of the aisle, it would not be feasible to consider such nominations at the present session of the Senate. Certainly, in the case of Army, Navy, and Air Force nominations, which are routine in character and which are usually considered by unanimous consent on the floor of the Senate, and certain diplomatic nominations, which it would be desirable to confirm from the point of view of having representation abroad, and certain other noncontroversial nominations, it seems to me they could be processed at the proper time.

Mr. JOHNSON of Texas. Mr. President, I am in complete agreement with the statement concerning nominations to be considered just made by the distinguished majority leader. Nominations of a routine nature, such as those in the Army, Navy, and Air Force, and certain important diplomatic nominations, and any other nominations that may be noncontroversial, should be acted on, assuming that such action does not take a great deal of the Senate's time. We have been in agreement on that subject since the day I arrived in Washington. I have brought that agreement to the attention of the members of my party in the Democratic policy committee. They felt that it was an excellent policy. We have so indicated to the majority leader. We do not want to delay any nominations, but we must reserve the right of each Senator to question any nomination he may choose to question, and to question the nominee to such extent as may be necessary to get all the information he needs before he votes on the nomination.

I would be less than frank if I did not say that after some 8 days of the session I feel that unless we take a new look at this session we are likely to find ourselves straying off into greener pastures. We came here for the purpose of considering the report of the select committee. We have had a number of visitors to the Senate, and we are always glad to have them, but meeting them consumes the time of Senators. Almost every morning a number of nominations have been reported. Normally, if we were not here to consider the report of the select committee, such nominations would come before the Senate in January. Each morning there come from the President messages designed to demand the attention of Senators and divert them from the purpose of this session.

In addition, Members have raised the question of the lunch period. We agreed we would meet at 10 o'clock in the morning and work until 5:30 in the afternoon. That seemed to be a reasonable schedule, but some Senators felt that, because of the responsibilities of the select committee and of the junior Senator from Wisconsin, we should make an allowance of time for lunch. The minority leader and the minority party have been willing to follow the rule of reason, but I wish to invite the attention of all Members of the Senate to the fact that if we expect to get home before Christmas we shall have to take some action with reference to persons paying us social calls and to various nominations. I hope the President will give consideration to the fact that the occupants of the offices to which nominations are being made can all continue to serve and can all be paid. A great many of them are already in their jobs.

The 80th Congress did not hesitate to hold back a number of nominations. We are willing to support and approve every nomination that satisfies every member of the committee which has jurisdiction. But I still remember the injunction laid down by the late Senator from Ohio, Bob Taft, who said to me, "I think so long as the humblest Senator from the smallest State has questions to ask a Presidential nominee, he should have that privilege."

There is not anything to be concerned, alarmed, or frightened about. The rule which the minority followed during the last Congress—and it will be followed in the next Congress—was to meet the President more than halfway. We did not have a jammed Executive Calendar. We did not hold up the President's nominations. We did not try to thwart the will of the Executive. We approached him with prudence and reason, obtained the information we desired, and in practically every instance we voted to confirm the nominations. I hope the nominations in the 84th Congress will be of such a character that we can follow the same course. But I wish to remind the Members of the Senate that we are now in the middle of November. Senators have been called from their homes across the Nation to come here for one purpose, namely, to consider the report of the select committee. We cannot make progress if we are going to have committee hearings before 10 o'clock or after 5:30 o'clock.

When we arrived at the schedule now in effect and determined upon it, we thought we had allowed the minimum amount of time Senators would require to take care of their mail and receive whatever constituents they had to see. After 5:30 in the afternoon, if a Senator wants to work into the evening, he can further catch up on his work. But if we are going to chase every rabbit that jumps up, we are not only going to be diverted from the purpose of the session, but are not going to make progress in other directions.

The men whose nominations have been mentioned are all drawing their pay. They can all serve. The public interest is not being jeopardized. No delay is being brought about. With reference to Army and Navy nominations, well and good. With reference to diplomatic nominations, when it is important that a person nominated to be an Ambassador should take his post of duty, his nomination can be cleared. The same is true of any other nominations which are not controversial, and which can be acted upon immediately. But where one single Member of the Senate wishes to ask questions and have hearings, I hope the majority will not insist that committees be asked to act on nominations. If they do, we shall have to insist that the Senate not consider them until action is taken on the report of the select committee, which is now the pending business.

I think, Mr. President, that with 1 or 2 additional speeches by members of the select committee, we ought to get to the point where the Senate can start voting on the matter for the consideration of which we were called into special session.

Mr. HICKENLOOPER. Mr. President, so that my position will be completely clear, I wish to state that because of the peculiar situations surrounding the operation of the Commission on Atomic Energy, I think it is imperative that the nominations of persons appointed to that Commission should have consideration. I also wish to state that if the committee votes to recommend these nominations for confirmation, I shall do everything I can to bring them before the Senate. I recognize the great power and strength of the leadership in opposition, but I shall do everything I can in my weak way to bring those nominations before the Senate at the earliest possible moment, if the committee so recommends. There are peculiar and quite important factors surrounding the operation of the Atomic Energy Commission. Therefore, I feel a responsibility to proceed with vigor to get the machinery going.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I yield.

Mr. JOHNSON of Texas. Will the Senator state those peculiar factors?

Mr. HICKENLOOPER. The Atomic Energy Commission has two vacancies. There is some question—I cannot say that I agree with it—about the legality of the appointments. I have seen no legal opinion on the question. There would be a difficult situation if we should find that in some of our most sensitive activities certain persons have been acting without authority and are expected to continue to act without authority.

I do not care to have any discussion with my friend the Senator from Texas. I only wish to make my position clear. We shall meet the issue at a later date if,

as, and when it arises. But if the committee recommends the confirmation of these two nominations I shall do whatever I personally can to bring that about. I realize that opposition to that action could be most formidable, and perhaps I could not overcome it, but I shall do whatever I can to get the Senate to act on the recommendations of the committee.

Mr. JOHNSON of Texas. Does the Senator know of any more peculiar situations which he can point out to the Senate?

Mr. HICKENLOOPER. Peculiar situations arise in the day-to-day program in connection with our international security. The Atomic Energy Commission is a unique body, conducting a unique operation.

Mr. JOHNSON of Texas. Is it the Senator's position that action cannot be taken by the Commission unless and until the nominations are approved?

Mr. HICKENLOOPER. Not necessarily, but the action of, let us say, 3 members out of 5 does not carry the authority of action of a full commission of 5 members. There are many reasons behind my request which I do not care to argue now with the Senator from Texas.

Mr. JOHNSON of Texas. I am not attempting to argue; I desire only to understand the viewpoint of the Senator from Iowa. He said there were certain peculiar situations which required action, in his judgment, and I wanted to know what they were.

Mr. HICKENLOOPER. My viewpoint is that if the Senate committee votes to recommend the confirmation of the nominations, I shall do everything I can to get the Senate to act on them. At the proper time, if the Senate elects to consider the matter, I shall go into the details, but I am not disposed to discuss details in the morning hour.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

Mr. ANDERSON subsequently said: Mr. President, I desire to state why I asked for an explanation of the nominations which are to be considered by the Joint Committee on Atomic Energy.

The term of Eugene M. Zuckert as a member of the Atomic Energy Commission expired on June 30. It had been known for many weeks that Mr. Zuckert would not be reappointed. It had been expected by the Joint Committee on Atomic Energy that a nomination would be sent to the Senate. At any time during the month of July a name could have been submitted. For the first 20 days of August, while the Senate was still in session, a name could have been submitted. No name was submitted during that period. Therefore, I do not believe it is quite proper to suggest that there is urgency now, if there was no urgency during the months of July and August.

It was merely my desire to have an opportunity to hear the appointees and to question them which caused me to raise the question.

SUBPENA SERVED ON EMPLOYEES OF COMMITTEE ON GOVERNMENT OPERATIONS IN CASE OF UNITED ELECTRICAL, RADIO, AND MACHINE WORKERS v. GENERAL ELECTRIC CO.

Mr. DIRKSEN. Mr. President, I call up for immediate consideration Senate Resolution 329, which was submitted yesterday. There are two members of the staff of the Senate Permanent Subcommittee on Investigations who were served with subpenas, one to testify and the other to deliver records.

There are two Senate resolutions. One is Senate Resolution 329, and there is an additional resolution which affirms the position of the Senate with respect thereto.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. JOHNSON of Texas. Is Senate Resolution 329 the resolution which was submitted to the majority leader and the minority leader yesterday by the chairman of the Committee on Government Operations?

Mr. DIRKSEN. It is.

Mr. JOHNSON of Texas. Am I to understand that Senate Resolution 329 was considered by the committee this morning, with the ranking minority member present, and that it was reported unanimously?

Mr. DIRKSEN. That is correct. I may say, in addition, that the anterior resolution was further considered with the Parliamentarian.

Mr. JOHNSON of Texas. Were any changes made in the resolution by the committee?

Mr. DIRKSEN. No; because the additional resolution was not printed in the RECORD.

Mr. JOHNSON of Texas. It is my information that the language of the resolution follows, in general, the language set forth in similar instances by the House of Representatives.

Mr. DIRKSEN. That is correct. It preserves the privilege of the Senate.

Mr. JOHNSON of Texas. I understand from the ranking minority member of the committee, the distinguished senior Senator from Arkansas [Mr. MCCLELLAN], that he approves of the action taken by the committee.

Mr. McCLELLAN. Mr. President, I approve it. I think it is the only way in which the integrity of the Senate can be preserved. I am opposed to purely fishing expeditions which seek to get before a court all the records of any Senate committee.

If there be any document in the possession of the committee which would aid in the administration of justice in any case pending in any court, and that document can be identified, I am perfectly willing to vote for the release of it, and to have it offered in court. But I am opposed to any type of dragnet expedition. I think the present procedure is the only way in which the integrity of committee records can be preserved.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The CHIEF CLERK. A resolution (S. Res. 329) relative to subpena addressed to a staff member of a subcommittee of the Committee on Government Operations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. CHAVEZ. Mr. President, may we have the resolution read?

The PRESIDING OFFICER. The clerk will read the resolution for the information of the Senate.

The Chief Clerk read the resolution, as follows:

Whereas, in the case of *United Electrical, Radio, and Machine Workers of America, and Others, plaintiffs*, v. *General Electric Co., defendants*, Civil Action No. 1037–54, pending in the District Court of the United States for the District of Columbia, a subpena ad testificandum was issued upon the application of Joseph Forer, attorney for the plaintiffs, and addressed to C. George Anastos, who is an assistant counsel of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, directing him to appear as a witness before the said court on the 15th day of November 1954 at 10 o'clock antemeridian and to give testimony in the above-entitled cause regarding evidence in the possession and under the control of the Senate of the United States: Therefore be it

Resolved, That by the privileges of the Senate of the United States no evidence under the control and in the possession of the Senate of the United States can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession, but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate of the United States is needful for use in any court of justice or before any judge or such legal officer for the promotion of justice and, further, such testimony may involve documents, communications, conversations, and matters related thereto under the control of or in the possession of the Senate of the United States, the Senate of the United States will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate; be it further

Resolved, That C. George Anastos, assistant counsel to the United States Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, in response to the aforementioned subpena, shall testify to any matter determined by the court to be material and relevant for the purposes of identification of any document or documents provided said document or documents have previously been made available to the general public; but said C. George Anastos shall respectfully decline to testify concerning any and all other matters that may be based on knowledge acquired by him in his official capacity, either by reason of documents and papers appearing in the files of said subcommittee or by virtue of conversations or communications with any person or persons, and specifically he shall respectfully decline to testify on any other matters including, but not limited to, the investigation of, the disciplining, retention or discharge of, any employee or employees of the General Electric Co. or the agents or representatives of said employee or employees, or any knowledge concerning same, all of which were acquired by said C. George Anastos in his official position, as such testimony is within the privileges of

the Senate of the United States; and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpena aforementioned.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 329) was considered and agreed to.

The preamble was agreed to.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the subpena which was issued and to which Senate Resolution 329 is a response, be printed at this point in the RECORD.

There being no objection, the subpena was ordered to be printed in the RECORD, as follows:

CIVIL SUBPENA — UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED ELECTRICAL, RADIO, & MACHINE WORKERS OF AMERICA, ET AL., PLAINTIFFS, *v.* GENERAL ELECTRIC CO., DEFENDANT—CIVIL ACTION NO. 1037–54

To George C. Anastos:

You are hereby commanded to appear in this court—report to office of assignment commissioner—at Third and Constitution Avenue NW., Washington, D. C., to give testimony in the above-entitled cause on the 15th day of November 1954, at 10 o'clock a. m., and do not depart without leave.

HARRY M. HULL, *Clerk.*
By DORIS C. MEECE,
Deputy Clerk.

Date: November 15, 1954.

JOSEPH FORER,
Attorney for Plaintiffs.

Mr. DIRKSEN. From the Committee on Government Operations I report an original resolution and ask that it be read and immediately considered.

The PRESIDING OFFICER. The resolution will be read.

The Chief Clerk read the resolution (S. Res. 330), as follows:

Whereas in the case of *United Electrical, Radio, and Machine Workers of America, et al., plaintiffs*, v. *General Electric Co., defendants*, Civil Action No. 1037–54, pending in the District Court of the United States for the District of Columbia, a subpena duces tecum was issued on November 15, 1954, upon the application of Joseph Forer, attorney for the plaintiffs, and addressed to James N. Juliana, acting staff director, Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, directing him to appear as a witness before the said court on the 17th day of November 1954 at 10 o'clock a. m. and to bring with him certain papers in the possession and under the control of the Senate of the United States: Therefore be it

Resolved, That by the privileges of the Senate no evidence of a documentary character under the control and in the possession of the Senate can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the Senate is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate; be it further

Resolved, That James N. Juliana, acting staff director, Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, be authorized to appear at the place and before the court named in the subpena duces tecum before mentioned, but shall not take with him any papers or documents on file in his office or under his control or in his possession as acting staff director of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations; be it further

Resolved, That when said court determines that any of the documents, papers, communications, and memoranda called for in the subpena duces tecum have become part of the official transcripts of public proceedings of the Senate by virtue of their inclusion in the official minutes and official transcripts of such proceedings for dissemination to the public upon order of the Senate or pursuant to the rules of the Senate, and, further, that such documents, papers, communications, and memoranda are material and relevant to the issues pending before said court; then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceeding, and then always at any place under the orders and control of the Senate, and take copies of such documents, papers, communications, and memoranda in possession or control of said James N. Juliana which the court has found to be part of the official transcripts of public proceedings of the Senate by virtue of their inclusion in the official minutes and official transcripts of such proceedings for dissemination to the public upon order of the Senate or pursuant to the rules of the Senate, and, further, that such documents, papers, communications, and memoranda are material and relevant to the issues pending before said court excepting any other documents, papers, communications, and memoranda including, but not limited to, minutes and transcripts of executive sessions and any evidence of witnesses in respect thereto which the court or other proper officer thereof shall desire as such matters are within the privileges of the Senate; and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpena aforementioned.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The preamble was agreed to.

Mr. DIRKSEN. Mr. President, I ask unanimous consent, further, that the text of the subpena in this instance be printed in the RECORD at this point.

There being no objection, the subpena was ordered to be printed in the RECORD, as follows:

CIVIL SUBPENA—UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA (UE), ET AL. PLAINTIFFS, *v.* GENERAL ELECTRIC CO., DEFENDANT—CIVIL ACTION NO. 1037–54

To James Juliana, acting staff director, Senate Subcommittee on Permanent Investigations of the Committee on Government Operations, Senate Office Building, Washington, D. C.:

You are hereby commanded to appear in courtroom of Judge McLaughlin, second floor, Third and Constitution Avenue NW., to give testimony in the above-entitled cause on the 17th day of November 1954, at 10 o'clock a. m. and bring with you the documents listed on the attached page, and do not depart without leave.

HARRY M. HULL, *Clerk.*
By DORIS C. MEECE,
Deputy Clerk.

Date: November 15, 1954.

JOSEPH FORER,
Attorney for Plaintiffs.

DOCUMENTS SUBPENAED

1. All memoranda, or copies thereof, in the possession of the Special Subcommittee on Investigations of the Senate Committee on Government Operations, of any meetings, conferences or discussions had from October 1, 1953 to September 1, 1954, inclusive, between Roy Cohn, George C. Anastos, Francis Carr, or any member, or other representative or agent of said subcommittee, with any officer, representative, or agent of the General Electric Co., with respect to the investigation, and discipline or discharge of any employee or employees of the General Electric Co. for asserting any rights, privileges, or immunities of the United States Constitution in declining to answer questions of a congressional investigating committee.

2. All written communications, or copies thereof, in the possession of said subcommittee, written from October 1, 1953 to September 1, 1954, inclusive, between Senator Joseph R. McCarthy, Roy Cohn, George C. Anastos, Francis Carr, or any other representative or agent of said subcommittee, and any officer, representative, or agent of the General Electric Co., with respect to the investigation, discipline, or discharge of any employee or employees of the General Electric Co. for asserting any rights, privileges, or immunities of the United States Constitution in declining to answer questions of a congressional investigating committee.

3. Stenographic transcript of hearings conducted by said subcommittee on November 12 and 13, 1953, in Albany, N. Y.

RESOLUTION OF CENSURE

The Senate resumed the consideration of the resolution (S. Res. 301) to censure the junior Senator from Wisconsin.

Mr. WATKINS. Mr. President, the Senate, in considering the pending business, is sitting as a court. At least, that is the legal effect of our present position. There has been a great deal of discussion about the nature of the matter now pending. There has been discussion about the nature of the committee's work. I have heard so much of what I consider to be loose talk about this subject that I should like to take a few minutes this morning to outline what I think is the real situation.

Under the Constitution, which has been referred to many times, the Senate is in full control of its own membership. It passes upon its Members' qualifications, and upon questions of discipline, if it decides to discipline any Senator. It is answerable to no one but the people themselves. No court can intervene or interfere with what this body does about its own membership.

I take issue with those who have said we are sitting as a jury. A jury is a trier only of the facts.

Mr. JOHNSON of Texas. Mr. President, we are going to have to do something about order in the Senate, or the Senator will have to speak louder. Conversations are going on on all sides of us. I ask the Senate be in order, and that request particularly applies to the

aides and attachés of the Senate and the occupants of the galleries.

The PRESIDING OFFICER. The point of order made by the Senator from Texas is well taken. The Senate will be in order. The Chair appeals to the Senator from Utah to raise his voice in order to enhance the ability of Senators to hear his remarks. The Chair would also inform those in the galleries that they are here as guests of the Senate. It is difficult to follow a debate if there is noise. The Chair commends the occupants of the galleries for the attention they are giving to the debate. If they will continue to pay the same attention, the debate will not be interrupted. The Chair may also say that, under the rules of the Senate, demonstrations either of approval or disapproval are not allowed.

The Senator from Utah may resume his remarks. The Chair will endeavor to keep order.

Mr. WATKINS. Mr. President, I regret that I do not have a voice as heavy and as loud as have some of the speakers who have preceded me in the debate. If I attempted to make it possible for everyone present to hear me, I would have to shout, and then it might be thought that I was angry. I should like to be dispassionate in this discussion, even though it involves my own honor. I wish to speak in tones of moderation.

Mr. President, I started to say something about the role of the Senate in the pending proceeding. I call attention to the fact that the Senate is not a jury. A jury hears and determines matters of fact only. As Members of the Senate we are called upon to determine not only matters of fact, but matters of law. We sit very much as a judge sits in court when he does not have a jury. He has to consider both matters of fact and of law. So all this talk about the Senate being the jury is, I think, a rather loose description of what it actually is. This is the body which makes the decision. No committee, no matter how much power has been given to it, has the authority to make a decision in a case of this kind. It must be done by the Senate itself. I think that should be kept clearly in mind in every discussion of the pending question.

As a Member of the Senate, I should like to discuss the case as one of the judges sitting here. Sometimes in courts litigants appear who stir the courts to their very depths and sometimes cause judges to say things they should not say. I remember that Judge Medina in New York, as he sat through months and months of a case, was sorely tempted time and time again to say something which might have caused a mistrial; but, in spite of all the vilifications and everything else he had to take, he kept his temper and poise. I think it was one of the finest exhibitions of judicial action I have read of in our judicial history. The temptations were there, but Judge Medina did not yield.

Let me come now to the work of the committee. The select committee was given a direct order under Resolution 301. When one examines closely the duty assigned to the committee, he finds that the committee was not to be a jury. Nor was it a grand jury, which term has been used in the debate.

If I correctly understand the operation of a grand jury, and I have had some experience with grand juries, a grand jury sits and listens to evidence submitted by a district attorney, under instructions from a court. The grand jury does not on its own responsibility investigate any matter. It does not secure the evidence to be presented before it, or undertake to make a record for somebody else. The fact of the matter is that a record of evidence submitted to a grand jury and of statements made before it is not ordinarily brought before the trial court when a person who has been indicted comes before a court for trial. The evidence has to be heard all over again.

What did the select committee have to do? In the first place it had to go over all of the charges, some 46 of them. The committee had to do its work within the limits of the time assigned to it, which ran almost to the first of next year. It was directed to report before the Senate adjourned sine die. It manifestly would have been impossible to consider every one of the charges, and make an investigation of them. As a matter of fact, some of the charges were so broad in scope that it might have taken a year to complete an investigation of them. Some charges were so vague and indefinite that had the committee investigated them, it would have resulted in our engaging in a fishing expedition.

It was the responsibility of the committee, in the first place, to get evidence. We hired staff personnel to investigate the various charges and to obtain documents and evidence of the actions of other committees, so that such evidence could be considered by the select committee. Such activity is not the function of a grand jury or a court. Let us keep that in mind. At the time the resolution was originally offered, it was said that the committee would be sitting as a court or a grand jury. The committee had its investigators gather the evidence. Such action was completely unlike what would be done by a grand jury, a court, or a master, or a hearing officer who might be assigned by a court to hear evidence. The function of the select committee was different from such functions. But the select committee did have a duty to perform, and the first task was to go over the charges and weed out those which the committee felt it should not take notice of, those which were not sufficiently important, or those it did not have enough time to investigate, and to select the more weighty charges, those which the committee felt were more important at the time. The committee had to decide which evidence it would hear. Then the committee had to schedule hearings, for the purpose of putting on record the evidence which the Senate, as a court, would finally consider.

In order to keep from building up a record which would contain material which had no relationship to the matter at hand, the committee adopted, so far as then would be applicable, the ordinary rules of evidence in effect in American courts, both Federal and State. That was done to screen out matters that should not be brought in, so the committee would have before it a record which would contain evidence bearing squarely on the matters in issue.

In addition to that, the committee decided it was only fair to permit the Senator who had been made the subject of the charges to appear before it and present evidence, to have investigations made in his behalf, by our investigators if he so requested, and to produce such witnesses as he desired, in order to put them on record, and also to give the select committee the benefit of the legal studies that had been made in the way of briefs, and even oral arguments, so they would be placed in the record for the benefit of the court, which is the Senate itself.

We proceeded to do just that. If Senators will read and consider the record as a whole, instead of taking out of context 1 or 2 little statements made at the time by the chairman of the committee, they will see that we accomplished that objective fairly well. Notwithstanding what has been said on the floor, the accused Senator was given an opportunity, within the confines of the rules of evidence and of the matters which were before us, to bring before the committee the witnesses he wished to present, and to bring before the committee whatever defenses he had.

At the outset we determined that we were not going to retry or reinvestigate all the matters which had been investigated by the Gillette-Hennings subcommittee. We also determined that we were not going into all the matters which had been brought before the Army-McCarthy hearings. Manifestly we simply could not do that. We did not have the time or the capacity to do it; and, besides, it was not our job to do it. The matters considered by the Gillette-Hennings subcommittee grew out of the conduct of the junior Senator from Wisconsin with respect to that subcommittee, after resolutions calling for his expulsion from the United States Senate had been referred to the subcommittee.

Of course we had to receive the report of the Gillette-Hennings subcommittee. We received it for the purpose of showing the subject of the controversy and the seriousness of it, and for other miscellaneous purposes; but we did not receive it for the purpose of proving the charges contained in the report made by the subcommittee following its investigation.

Mr. President, much has been said about the members of the select committee. I ask the Senate this question in all fairness, just as a matter of ordinary, commonsense and logic: If this body were to do a little preliminary studying, would it be necessary for the Members of this body to have better qualifications, to be more impartial, or to have any other qualities which might be mentioned with respect to a group of that sort, than the qualifications of the court itself to which the study group was to report?

After all, the test in this case is whether there can be any legal ground

for disqualifying the six members of the select committee from sitting on this court—the Senate itself. I have not heard a whisper from anyone to indicate that any one of us could be challenged successfully, or that any other Member of this body could be challenged successfully, because the Constitution of the United States prescribed this court, and created it, and no one else—not even the Supreme Court of the United States—can change it. So let that be the test. If we can sit in the Senate at the time when the Senate is reaching its decision on this matter, certainly we are qualified to do some of the chores in gathering together the evidence.

The question of whether the select committee has done a good job or a bad job is to be determined by the Senate. The record is before the Senate. We on the select committee went down the line; and when we got through, we reached certain conclusions in our own minds. We did not necessarily need to make recommendations to the Senate; but we felt that we should make them because we realized that within a very few days after the report would be filed with the Senate, we would have to take a position on this matter. So we could not see why we should not take it prior to the decision of the Senate. That is the way we felt about it; and if it would be of any benefit to the Members of the Senate, we wanted them to have that benefit.

I submit to the Senate that in the report itself the Senate will find an answer to nearly every one of the questions of fact and questions of law which have been raised. If the Senate will read the report seriously and carefully, I submit the Senate will find an answer to nearly every one of those questions. Some of them may have been overlooked. If so, attention should be called to them.

So that is the situation we have at the outset; and at this time, all Members of the Senate are here as members of what—although not described in the Constitution as such—actually, in a measure, is a court sitting to consider charges which have been made against one of the Members of this body. In this case the Senate is not the jury. In this case, Senators are the judges of the facts and the law. I do not think I am mistaken in the analysis I have made of the entire situation.

During the sessions of the select committee, from time to time various matters were called to the attention of its members. For instance, although the members of the select committee were not told that "Senator JOHNSON of Colorado was disqualified," yet there was a desire to go into a long series of questions about Senator JOHNSON of Colorado or about something he had said. However, the Senate itself had created the select committee, and each one of its members had identical authority. No one member of the committee had any more authority than any of the other members had. As a member of the committee, I could not say to Senator JOHNSON of Colorado, "You cannot sit on the select committee," nor could he say that to me. If it had been possible for the various members of the select committee to rule on whether any of its members were disqualified, we could have begun by removing one member of the committee, and then by removing a second; but we would have been unable to remove a third, because in voting on that question we would not have had a majority to vote, inasmuch as such a member could not vote on his own case. In such circumstances there would not have been a select committee. The place to make a challenge, if any challenge at all had been permitted, was in the Senate itself, the body creating the committee, because the members of the select committee were not given any authority to judge each other's qualifications. All matters raised, or attempted to be raised before the committee, were immaterial and improper and therefore should not be considered.

The members of the select committee read the instructions contained in the resolution and, in a larger sense, set forth in its preamble. We attempted to be as fair as human beings could be in a very difficult situation. So, Mr. President, as a matter of law, as a matter of justice, and as a matter of fairness, all this talk about whether the junior Senator from Wisconsin had a fair jury or whether, as was referred to the other day, he had a jury that would be as fair as the jury a man would be entitled to have if he were charged with stealing a pig—I remember that illustration was used—is entirely meaningless, because of course the committee had no duty which would compare with that of a jury sitting to determine whether a man was guilty of petit larceny or of grand larceny—depending on whether it is petit larceny or grand larceny to steal a pig; and of course that depends upon the jurisdiction involved. In such a case there would be a prosecuting attorney or attorneys and a defense attorney or attorneys, and a judge to preside over the trial. Neither the judge nor the jury would go forth and hunt any of the facts; that would be done by the prosecution and the defense. It seems to me that point should be so clear, that I cannot understand how Members of the Senate, qualified to sit here, could expect us to discuss it much further. In fact, I apologize for mentioning it now; but it has been mentioned so many times that I felt I should at least make some statement with respect to what we considered our duties to be.

Mr. President, today, in what I am going to say from now on, I shall be as dispassionate as I possibly can. I should like to be as dispassionate as Judge Medina was in the famous case in New York. Probably I have not the same qualifications. Permit me to say, as a matter of interest to myself, that Judge Medina was a classmate of mine at Columbia University. He is a man I hold in great and high respect.

I will do my best. But, as Judge ERVIN said yesterday, he is human; and I am human. So I may be forgiven, I am sure, if at times I evidence a little justifiable indignation; I would not say righteous indignation, but it may be justifiable, human indignation.

Mr. President, as a preliminary, I made a statement on last Friday. At this time I shall read it again, because it has to do with the situation which has come to the attention of the Senate in the past few days:

Mr. WATKINS. Mr. President, I have two principal concerns with reference to the matter now before the Senate. One is that the Senate analyze the facts upon which the select committee based its recommendations for censure, and the other is that the Senate debate and pass judgment on this very important matter in a dignified and judicial manner.

Wednesday, for a long period of time—

I interpolate to say that I think it was more than a hour and a half—

I submitted myself to interrogation by the junior Senator from Wisconsin, yielding to him repeatedly for the purpose. I did this as a matter of courtesy to the Senator, but I believe he abused that courtesy. I had hoped that he would submit to me questions which would enlighten him or the Senate. I did not then intend, nor do I now intend, to engage in a personal wrangle with the junior Senator from Wisconsin, nor do I intend to be placed in the position of a prosecutor when my sole responsibility is to carry out an assignment which was given me by the Senate of the United States and by the select committee.

I interpolate again to say that I was the representative, and am still the representative, of the Senate, selected to do that job. When I am attacked, the Senate is being attacked, because I am the agent of the Senate. The other members of the committee are in the same capacity.

I continue with the statement:

I am willing, and I know every member of the select committee is willing, to be helpful in anyway possible, and to explain matters which may require clarification. But we must be permitted to explain them in our own way, and at times of our own choosing.

The record is large. It consists of nearly a thousand pages, I think. We worked industriously on it. We did not get any vacation; I know I did not. I had to return to Washington early, and I had to remain here after other members of the committee went home, to adjust certain matters. Between the time the hearings were scheduled and the time the Senate reconvened, someone had to direct the investigations and gather the evidence. That fell to my lot. I am not complaining. I was proud to work with the men with whom I was associated.

Continuing the reading of my statement of Friday last:

Under Senate rules we are entitled to do that. The unanimous and nonpartisan judgment of the committee, its precise and specific findings of fact, and all of its conclusions of law, are set forth fairly, clearly, and dispassionately in the committee's report. It is this which embodies the committee's views; it is a joint and collective production, and certainly not alone my individual views, or those of any other individual member. It was unanimous. If any argument is required to sustain the recommendations of the select committee, that argument is set forth in the report itself.

Under the rules of the Senate, each Senator is entitled to speak without interruption. He may yield only as a courtesy to answer genuine questions asked in good faith. I yielded for that purpose Wednesday. I am aware of the fact that the pending present matter is not an ordinary legislative proceeding. It is certainly judicial in nature and,

in my opinion, requires decorum and a dignity in keeping with that conception. This cannot be maintained, as I view it, when there are personal wrangles between the Senators participating in the debate, or when one Senator wrongfully accuses another, on the floor and in a nationwide telecast, of running out on questioning, after the Senator so criticized—myself—had patiently submitted to virtually a half day of repetitive questioning on Wednesday.

In fact, I even made this offer on the afternoon when I requested a brief respite from the questioning, which I quote from the CONGRESSIONAL RECORD of Wednesday, at page 15932:

"Mr. WATKINS. Mr. President, I was occupying the floor when the Senate took a recess. I have been on my feet with the exception of a brief interruption for the luncheon period, for a considerable period of time. I have extended courtesies to the junior Senator from Wisconsin in order to enable him to ask me questions. I do not intend to deny him the opportunity for further questioning, but at this moment I wish to yield the floor. Later I shall submit myself for questioning."

For this statement, made while the junior Senator from Wisconsin was on the floor, I was twice accused by him Wednesday of running out.

Therefore, I am stating now that I shall be ready and willing to answer questions that are germane, proper, and in good faith, which may be submitted to me in writing or which may be submitted during the course of speeches by participating Senators.

Incidentally, the junior Senator from Wisconsin did ask some questions in his brief remarks on Wednesday, and I intend to answer them in due time. I will give the answers on my own time and in my own way. In other words, if I am to extend courtesies which result in getting me into a wrangle which detracts from the dignity of the Senate in the present discussion, I ought to determine what the terms and conditions shall be for such questioning.

Continuing with my remarks of last Friday:

I will give the answers on my own time and in my own way. I will try to take careful note of the questions which are propounded. By doing this I believe we can keep the debate on a higher plane and give better service in the way of information in reply to inquiries.

On November 13 a dispatch was sent by the United Press from Milwaukee which reads, in part, as follows:

NOVEMBER 13.—Senator JOSEPH R. MCCARTHY today accused Senator ARTHUR WATKINS, Republican, of Utah, of the "most unusual, most cowardly thing I've heard of" in saying he would answer no future oral questions by McCARTHY or any other Senator.

"If a man is chairman of a committee, he should be willing to answer for errors in his report," Mr. McCARTHY said. "Otherwise he is miserably failing his duty as chairman."

"It is the most cowardly, most unheard of thing I've heard of so far," Mr. McCARTHY said.

"I expected he would be afraid to answer the questions, but didn't think he'd be stupid enough to make a public statement," he asserted.

I suppose I should be very indignant over that statement, but in many respects I feel more sorrow than anger over it. It reveals an attitude which has characterized the junior Senator from Wisconsin for some time. To be called a coward, of course, involves a stigma which no real man relishes. I remember reading in the record some of the things he said about the Gillette-Hennings committee. I expect to review portions of the record. Apparently, if we are to judge from his remarks, the members of that committee were not only dishonest but they were working in the interest of the Communist cause.

The charges made against the Gillette committee, which I shall review, are even worse than the charge against me of being a coward and the charge that I am stupid. Of course, the record will speak for itself. Members of the Senate, and I believe the people of the country at large, know something about my activities. I am not going into any detailed defense of my courage. I hardly think that is necessary. But since the junior Senator from Wisconsin has opened up the subject of cowardice, I think it is only proper to consider, from the judicial standpoint, some of the activities in which he has been engaged, activities which are under discussion and investigation by this body.

Let us go back to the Gillette-Hennings committee hearings. Almost in the very beginning the junior Senator from Wisconsin said in a letter, after it was called to his attention that Senator Benton had appeared before the committee, "I am not going to even read, let alone answer, the charges."

Where did he say that? He wrote a letter from the safety of his office. Oh, no, he did not appear before the committee. He did not appear when Senator Benton was there, and he did not accept the invitation to come before the committee and testify, although such an invitation was duly extended to him.

Looking over this group, I do not think I can see any Senator present, and I do not believe there is another Member of this body, who would have refused the invitation to go before the committee when his honor and his integrity were under serious charges and serious investigation.

As a matter of law, I think this court has a right to take into consideration the conduct and attitude of the junior Senator from Wisconsin with respect to that committee, and the question of his willingness or unwillingness to appear.

Things went on for some time. There followed one letter after another, insulting the committee, branding it as dishonest, and all that sort of thing. Such letters were sent from the safety of the Senator's office. He did not appear before the subcommittee, where he could be cross-examined. He was not under oath. He could fire his questions and epistles at the subcommittee and give them to the press first and let the subcommittee get them afterward. Senators must take all that into consideration.

Why did he not appear before the subcommittee? He said the subcommittee was dishonest. He said it was going beyond its jurisdiction. He was a member of the parent committee. Why did he not wish to appear before the subcommitte? Let me read some of the charges which the subcommittee was considering. I believe the Senator's friends and supporters over the land ought to give careful attention to these charges, because they were what the subcommittee was considering, namely, his conduct in relation to the whole subject; and that is what the select committee was doing.

A letter was written by the Senator from Missouri [Mr. HENNINGS], the chairman of the subcommittee, to the junior Senator from Wisconsin. This is what the Senator from Missouri, said:

Pursuant to your request, as transmitted to us through Mr. Kiermas, we are advising you that the subcommittee desires to make inquiry with respect to the following matters:

1. Whether any funds collected or received by you and by others on your behalf to conduct certain of your activities, including those relating to communism, were ever diverted and used for other purposes inuring to your personal advantage.

Was that a serious charge? Was that a question involving something serious connected with the investigation? Let Senators read the record of the subcommittee. It is contained in volume 2 of the hearings of the select committee. Senators will find in it the report of the Gillette-Hennings subcommittee. In that report Senators will find the report on the evidence which the subcommittee received, and they will find photostats of checks and ledger accounts and testimony, indicating at least that there were some serious problems connected with the first charge.

According to the evidence, thousands of dollars had been received, and the money had apparently gone into the hands of the junior Senator from Wisconsin for the purpose of fighting communism. Whether or not that was true the select committee was not to determine, but the select committee was to determine whether the charges were serious. There is only one man who could clear that up, and that man was the junior Senator from Wisconsin.

I am not saying he was afraid to appear, or that he was a coward, or that he did not dare appear before the committee. However, there are some legal implications that grow out of it all.

This was not an ordinary proceeding. It was not a proceeding in court. His honor was involved. No one could send him to jail. Certainly the Senate, under its present rules and regulations, could not send him to jail for any violations.

Why did he not appear and meet with that subcommittee, and why was he not willing to help the subcommittee by answering the questions that had arisen?

Well, Mr. President, he charged that the subcommittee was without jurisdiction and that it was dishonest.

Then the subcommittee put the whole matter squarely up to him. It said to him: "If you think this committee is dishonest and does not have integrity, and that the committee has gone beyond its jurisdiction, there is provided a way by which you may test that situation. You can submit a resolution to discharge this committee, and set forth the reasons why it ought to be discharged. You can bring the resolution before the Senate, which gave us a job to do. Why do you not do that?"

I may say that that inquiry was a job which that committee did not seek, either.

The committee adopted a motion in that regard, and advised the junior Senator from Wisconsin that if he did not do what they suggested they would do it.

I point out that charges had been made against the committee, but in every instance there was no proof to sustain those charges, except the bare statement of the junior Senator from Wisconsin himself. His statements were mere conclusions of his own.

I shall read the resolution, skipping the preliminary parts:

Whereas, in a series of communications addressed to the chairman of said subcommittee during the period between December 6, 1951, and January 4, 1952, the Senator from Wisconsin [Mr. McCARTHY] charged that the subcommittee lacked jurisdiction to investigate such acts of the Senator from Wisconsin [Mr. McCARTHY] as were not connected with election campaigns and attacked the honesty of the members of the subcommittee, charging that, in their investigation of such other acts, the members were improperly motivated and were "guilty of stealing just as clearly as though the members engaged in picking the pockets of the taxpayers"; and

Whereas, on March 5, 1952, the Subcommittee on Privileges and Elections adopted the following motion as the most expeditious parliamentary method of obtaining an affirmation by the Senate of its jurisdiction in this matter and a vote on the honesty of its members:

"That the chairman of the Committee on Rules and Administration request Senator McCARTHY, of Wisconsin, to raise the question of the jurisdiction of the Subcommittee on Privileges and Elections and of the integrity of the members thereof in connection with its consideration of Senate Resolution 187—

I wish it to be kept clearly in mind that Senate Resolution 187 is the resolution which was submitted by Senator BENTON, seeking an investigation of Senator McCARTHY's activities and his expulsion. It is not to be confused with Senate Resolution 304, which was later submitted by Senator McCARTHY, seeking an investigation of the activities of Senator BENTON and his expulsion from the Senate. This has to do only with Senate Resolution 187. I continue to read—

by making a formal motion on the floor of the Senate to discharge the committee; and that Senator McCARTHY be advised by the chairman of the Committee on Rules and Administration that, if he does not take the requested action in a period of time to be fixed by stipulation between Senator McCARTHY and the chairman of the Committee on Rules and Administration, the committee (acting through the chairman of the standing committee or the chairman of the subcommittee) will itself present such motion to discharge for the purpose of affirming the jurisdiction of the subcommittee and the integrity of its members in its consideration of the aforesaid resolution;" and

Whereas, on March 6, 1952, the said motion was also adopted by the Committee on Rules and Administration and the chairman of said committee submitted to the Senator from Wisconsin [Mr. McCARTHY] a copy of the above-stated motion; and

Whereas, by letter dated March 21, 1952, the Senator from Wisconsin [Mr. McCARTHY] in effect declined to take the action called for by the above-stated motion, repeating his charge that the subcommittee has been guilty of "a completely dishonest handling of taxpayers' money", referring to a preliminary and confidential report of its staff as "scurrilous" and consisting of "cleverly twisted and distorted facts":

Now, therefore, to determine the proper jurisdiction of the Committee on Rules and Administration and to express the confidence of the Senate in its committee in their consideration of Senate Resolution 187, it being understood that the following motion is made solely for this test and that the adoption of the resolution is opposed by the members on whose behalf it is submitted, be it

Resolved, That the Committee on Rules and Administration be, and it hereby is, discharged from the further consideration of Senate Resolution 187.

The resolution was submitted to the Senate for the purpose of testing the charges. What did Senator McCARTHY do about it?

Remember, he wrote the letter from the safety of his own office. He did not appear before the committee and tell them face to face. When he came on the floor I was present, and I think the majority of the Senators who voted on the resolution that day are now in the Senate. He did not defend his position even before the Senate, as I remember the record, but he said, "Of course, vote for the resolution." And as I remember, he had in mind that we had to vote for it to keep it alive so the subcommittee could consider and take care of Resolution 304, which was the one providing for expelling Senator Benton. There was nothing in Resolution 300 about Resolution 304.

Looked at as a judicial matter, would not a judge or a jury in considering the facts be rather interested in finding out why, after making these charges against the subcommittee, he did not appear and defend his position in the Senate? He did not even remain to vote. He announced he would vote against the resolution. But there was the remedy. He would not do it after he was asked to, after all these charges.

I am not saying he was afraid; I am not saying he was a coward, but I am saying there are some very serious questions connected with his conduct in which any judge, and particularly a Senate committee sitting as we were, under our own rules and regulations, would be very much interested.

Mr. President, I have a note from the majority leader concerning the recess. I think it will take me a considerable time to complete my statement, and I probably should desist at this time, with the understanding that I shall have the floor when the Senate reassembles.

RECESS

Mr. KNOWLAND. Mr. President, I move that the Senate stand in recess until the hour of 1:45 o'clock today.

The motion was agreed to; and (at 12 o'clock and 41 minutes p. m.) the Senate took a recess until 1:45 o'clock p. m.

On the expiration of the recess, the Senate reassembled, and was called to order by the Presiding Officer (Mr. BUTLER in the chair).

RESOLUTION OF CENSURE

The Senate resumed the consideration of the resolution (S. Res. 301) to censure the junior Senator from Wisconsin.

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Abel	Ferguson	Magnuson
Aiken	Flanders	Malone
Anderson	Frear	Mansfield
Barrett	Fulbright	McCarthy
Beall	Gillette	McClellan
Bennett	Goldwater	Monroney
Bridges	Green	Morse
Brown	Hayden	Mundt
Burke	Hendrickson	Murray
Bush	Hennings	Neely
Butler	Hickenlooper	Pastore
Byrd	Hill	Payne
Capehart	Holland	Potter
Carlson	Hruska	Purtell
Case	Humphrey	Robertson
Chavez	Ives	Russell
Clements	Jackson	Saltonstall
Cooper	Jenner	Schoeppel
Cotton	Johnson, Colo.	Smith, Maine
Crippa	Johnson, Tex.	Smith, N. J.
Daniel, S. C.	Johnston, S. C.	Sparkman
Daniel, Tex.	Kefauver	Stennis
Dirksen	Kilgore	Symington
Douglas	Knowland	Thye
Duff	Kuchel	Watkins
Dworshak	Langer	Welker
Eastland	Lehman	Wiley
Ellender	Lennon	Williams
Ervin	Long	Young

The PRESIDING OFFICER. A quorum is present.

The Senator from Utah [Mr. WATKINS] has the floor.

VISIT TO THE SENATE BY HON. EDMOND MICHELET, A MEMBER OF THE SENATE OF FRANCE

Mr. WILEY. Mr. President, will the Senator from Utah yield, in order that I may present to the Senate a distinguished visiting Senator?

Mr. WATKINS. I yield.

Mr. WILEY. It is my distinct honor today to present to the Senate a great citizen of France, one who wears the Medal of the Legion of Honor, who has been three times Minister of War, and is now a Senator of France. He is a businessman, but above all, he is a great Christian leader.

I present the Honorable Edmond Michelet, of France.

[Applause, Senators rising.]

RESOLUTION OF CENSURE

The Senate resumed the consideration of the resolution (S. Res. 301) to censure the junior Senator from Wisconsin.

The PRESIDING OFFICER. The senior Senator from Utah.

Mr. WATKINS. Mr. President, when the Senate took a recess I was talking about Resolution 300, which had been brought before the Senate to test the jurisdiction, the honesty, the sincerity, and the integrity of the Gillette-Hennings subcommittee. Before I forget it in the extemporaneous speech I am now making, since I am speaking without a manuscript, I wish to point out that the resolution was voted upon by the members of the Senate. In doing that the

Senate took a position against the contentions which Senator McCarthy had been making over the months during which the matter had been before the Gillette-Hennings subcommittee. Whether such action disqualified any Senator from acting in the future with regard to Senator McCarthy is up to this body to decide, but even to suggest it seems absurd to me. The Senate had to take a position, and it took the position unanimously, that the subcommittee had jurisdiction of the matter about which Senator McCarthy had been complaining, and that the subcommittee was one of integrity and honesty. I was present and voted for the resolution, as I remember the record.

Let me proceed to discuss the matters which were before the Gillette-Hennings subcommittee. I have already called the attention of my colleagues to one of the matters which the subcommittee was investigating, and as to which the subcommittee had uncovered considerable evidence. In making this statement I do not say whether the charges were true or false, but the committee had uncovered detailed, documentary evidence that rather considerable funds had been contributed to Senator McCarthy for the purposes of fighting communism. Much to my amazement, because I was not acquainted with the evidence until the select committee went into the matter last August, after it had been appointed, there was record evidence that tended to prove, at least on the surface, large sums of money had been diverted from the so-called trust fund to Senator McCarthy, at least for investment purposes in his own name or in the names of others.

Senator McCarthy did not do anything about that charge until the subcommittee considered another charge. Questions had been submitted to Senator McCarthy by the subcommittee after it had invited him time and time again to appear before it. The second question was:

> Whether you, at any time, used your official position as a United States Senator and as a member of the Banking and Currency Committee, the Joint Housing Committee, and the Senate Investigations Committee to obtain a $10,000 fee from the Lustron Corp., which company was then almost entirely subsidized by agencies under the jurisdiction of the very committees of which you were a member.

That was a very significant inquiry, for the reason that Senator McCarthy was a member of the Committee on Banking and Currency of the Senate. The Lustron Corp. had obtained a rather large loan from the RFC. Senator McCarthy later sold, for about $10,000, a manuscript to that concern, the Lustron Corp., which later defaulted in its payments to the United States. Whether Senator McCarthy did that illegally, whether there is anything bad about that transaction or not, I am not here to say, but on the record as it stands in the report many questions were raised which any man who wanted to protect his name and honor, and the dignity and the honor of the Senate, certainly would have answered.

What did Senator McCarthy do about that? He finally came before the Senate and made a speech attempting to explain the transaction, if I remember the record correctly. It is rather significant that that was the only one of the six charges he attempted to explain. What would be the legal inference to lawyers arising from a situation in which a man faced with six different grave charges would appear only as to one of them and make an explanation in the Senate? The Senator had a right to speak in the Senate if he did not think the committee was doing the honest thing. However, he did not say anything about the other equally grave charges. I am not saying the Senator was a coward, or that he was afraid to go before the committee. I am leaving it up to my colleagues to make a judgment on that question.

Let us consider what the other inquiries by this subcommittee were. No. 3 reads:

> Whether your activities on behalf of certain special interest groups, such as housing, sugar, and China, were motivated by self-interest.

There are some ugly figures in the Gillette-Hennings subcommittee record on the financial situation in which Senator McCarthy was when he came to the Congress, and as the history of his transactions developed over the years. According to the evidence, there was some indication that Senator McCarthy was very heavily in debt when he became a Member of the Congress, and as time went on some rather rapid profits were realized. How he was connected with those, I do not know. I am pointing that situation out not to indicate that those charges were proven to be true, but merely that those were the charges. That was the nature of the investigation being made, and he ignored the charge.

The fourth question was:

> Whether your activities with respect to your senatorial campaigns, particularly with respect to the reporting of your financing and your activities relating to the financial transactions with, and subsequent employment of Ray Kiermas involved violations of the Federal and State Corrupt Practices Acts.

There was considerable testimony and evidence received by the committee respecting that inquiry. None of these matters were cleared up, but there was much evidence indicating that somebody ought to answer the charges or take notice of them.

When the allegation that the matter was outside the jurisdiction of the subcommittee is considered, my colleagues should remember that the Gillette-Hennings subcommittee was the Subcommittee on Privileges and Elections. Under authority of the Reorganization Act, and by custom, the subcommittee, if it so desired, had the right to investigate matters concerning elections, whether there were resolutions before it or not, just as Senator McCarthy's Committee on Government Operations has the right to make investigations without having resolutions before it.

The fifth question was:

> Whether loan or other transactions which you had with the Appleton State Bank, of Appleton, Wis., involved violations of tax and banking laws.

There was considerable evidence on that aspect, which certainly called for some kind of explanation, and Senator McCarthy did not do anything about that, and did not even come to the Senate floor to explain it.

The sixth question was:

> Whether you used close associates and members of your family to secrete receipts, income, commodity, and stock speculation, and other financial transactions for ulterior motives.

There was evidence, documentary and otherwise, on that charge, which demanded some kind of explanation.

Those were the charges and the matters the committee was investigating. After Senate Resolution 300 was agreed to, upholding the committee on every point, Senator McCarthy's conduct did not change in the slightest. Still, from the sanctity of his office, he blasted them with insulting letters and charges until December 6, when he attempted to answer—by letter, not by appearing for cross-examination—the letter which had been written to him, setting forth these charges. He said, in effect, "I do not think I am ignoring them completely. The answer is 'No.'" So in his insulting letters he described the members of the subcommittee. He was still belligerent, and he still failed to give any cooperation. That was in December 1952, shortly before the new session of Congress was about to begin. So Senators can realize how the subcommittee was handicapped; without his appearance and without receiving an explanation from him, it was almost impossible for the subcommittee to cover properly the charges which had been made and to report to the full committee and for the full committee to report to the Senate on the resolution which had been referred to the committee.

So the matter went into the new year. At the very last moment, the report was made by the subcommittee to the full committee, and was left with the full committee. It never reached the Senate.

Now let us consider the situation following the submission of Senate Resolution 301 and its reference to the select committee. Sometime after the select committee made its report, Senator McCarthy sent me a letter in which he charged that three Senators on the select committee were biased and were guilty of fraud. That story was released to the newspapers. Since I returned from Salt Lake City, I have not been able to locate the original letter. Senator McCarthy charged there was deliberate deception and fraud on the part of those three Senators, for failure to disqualify themselves from service on the select committee.

I have already gone into the matter of what kind of Senators were on the select committee, under the law and under the resolution. I shall not repeat that statement. But since my own fairness and

my own qualifications to sit on the select committee have been challenged, I should like to make a few remarks on that subject—not because it is absolutely necessary for me to do so, but because I think the select committee has been unjustifiably attacked and because I believe I have been unjustifiably attacked. Therefore, I should like to point out my activities with respect to the junior Senator from Wisconsin.

I have long been a member of the Internal Security Subcommittee, which is charged with investigating matters affecting the security of the United States. I have been a member of that subcommittee practically ever since it was organized under the McCarran Subversives Control Act. A little later I shall say more about that. However, as an investigator and as a close worker with the late Senator McCarran and with the other members of that subcommittee, I came to have a rather definite understanding of the Communist menace and the necessity for such investigations. I participated in most of those investigations. As I remember the activities of that subcommittee, every vote taken by it was unanimous; our reports were always adopted as unanimous reports. So I think I came to understand the Communist menace. We held many hearings. I was called to preside over many of them because at that time I was not of the majority party, and thus I did not have so many legislative chores, as I have had since the Republicans took over in 1953. So at that time I had more time to devote to that work. As a result, I went into that matter; and having become acquainted with it, I knew the problems with which Senator McCarthy and his committee were faced, and I knew the difficulties they were having. Consequently, when at various times some persons would make attacks upon the activities of Senate committees, particularly his committee, I felt it was proper to explain how they were working and why they were justified in doing what they were doing—although I did not always agree with the way it was done. In fact, the Internal Security Subcommittee proceeded quite differently in many respects.

A year ago I was in Europe, where I spent approximately 3 months. During that time I had opportunity to meet many of the officials of 16 countries. Invariably, one of the first questions asked was, "What about the work of Senator McCarthy?" Immediately I could see they were very hostile. That was true not only of leading foreign officials I met, but also of officials of our diplomatic corps and of our service groups and others. Again I attempted to explain how our committees operate and Senator McCarthy's role in that work; and I said I thought his objectives were good. In fact, if other Senators were to talk to the persons to whom I talked, I think they would find that those persons would say I was definitely pro-McCarthy. I had had the experience of working with the Internal Security Subcommittee, and I knew at first hand the problem facing that committee and other committees engaged in similar work. After all, for a long, long time I had participated in the investigations made by the Internal Security Subcommittee.

Let me now refer to a speech Senator McCarthy made when the American forces were at the Yalu and being driven back. As I remember, in the speech he attacked the Pentagon for leaking a very confidential dispatch from General MacArthur to the Joint Chiefs of Staff. I had forgotten about that incident until after I became a member of the select committee. I thought Senator McCarthy showed a great deal of courage in doing that. In a speech I made on the same subject, I praised him publicly. I mention this to show the Senate that as we go along in the work of the Senate, when our colleagues are concerned, on various occasions we can speak one way or another in commenting on the various events as they are happening. What I have stated is what occurred.

Furthermore, when inquiries had been made of me, I had written letters to various personal friends, explaining that I felt Senator McCarthy's objectives were good, although in many instances I could not agree with the methods used by him. That did not necessarily mean any hostility to him, but I did not agree with the way things were being done by him. That often happens; for instance, some persons like the way certain lawyers proceed in a court case, and other persons do not like the way those lawyers proceed. A similar situation arises in many other fields. But there was no reason for me to be hostile to Senator McCarthy. I had been working in the same field, and I was familiar with it.

So, Mr. President, the charge that I was biased against Senator McCarthy is absolutely false. Yet that charge was made again. So we see the pattern. The minute the select committee started its work, Senator McCarthy charged that Senator Johnson of Colorado was biased. Senator McCarthy could not question Senator Johnson of Colorado on that basis here in the Senate; but he apparently wished to fill the select committee's record with questions of that sort. Judging from the way Senator McCarthy operates, I am as certain as I am that I am now standing in the Senate Chamber that Senator McCarthy would have kept on with such charges and questions in the select committee—as he did—as long as he could, until he had absolutely stalled the entire investigation. After all, it was in that way that he stalled the Hennings subcommittee investigation, and now he says we cannot go into the matter that subcommittee was investigating because it occurred in a former Congress.

Under date of November 4, the following dispatch from Washington appeared in the New York Times:

> Senator Joseph R. McCarthy called on the Senate special censure committee today to explain what he called an imbecilic ruling before the Senate begins its "lynch bee next Monday."

So now our proceeding in this Chamber is referred to as a "lynch bee next Monday."

Mr. President, who is conducting the lynch bee? Apparently, as I now look at my colleagues in this Chamber, I am looking at a group of mobocrats here in the Senate. The phrase "lynch bee" has a meaning in the United States. What is that meaning? The members of the select committee have not as yet entered this Chamber and say to the other Members that it was an insult. But if ever an insult was hurled at the United States Senate, it happened when the Senator from Wisconsin made that statement. That statement was published some time ago. He has not denied it; he has not denied that he referred to this session of the Senate as a lynch bee, with all the implications of that phrase.

What does that do to the Senate of the United States before the people of the world? The Communists talk about lynching in the United States. It is one of their pet subjects. A man who is fighting the Commies now adds the United States Senate to those about whom the Commies have been talking, who are allegedly supposed to perform lynchings — lawbreakers without rule, without process. Such talk concerns a lynching bee, with all that implies.

Again, I call attention to the fact that he did not come into the Senate to do that. Of course, he is not a coward. Let Senators say what he is.

I come now to another matter. I am advised that on Tuesday, November 9, there was released to the press a copy of a speech which Senator McCarthy intended to deliver in the Senate on Wednesday, and which he announced would be delivered in the Senate on Wednesday. It was not delivered in the Senate on Wednesday. Senators will remember that the debate began with the introductory statement which I made. The morning hours were consumed with that statement and the questioning by Senator McCarthy. There was a shortage of speakers. At one stage it seemed that we were about ready for a vote on the first amendment, because there were no speakers; yet here was a man who told the press he was going to make a speech. He gave the text of the proposed speech to the press, and it was printed.

What happened? Only a few minutes before it was time to adjourn or recess that night, the junior Senator from Wisconsin asked unanimous consent to have that speech printed in the Record. He could not be questioned about it. There was no opportunity. I, for one, did not know what was in it. I had not read the release the night before. Otherwise I never would have consented to printing that speech in the Record by unanimous consent.

What did he do in that speech? Senators have heard about it. I cannot say that he was afraid to face us; but the facts are there, and we can take notice of them. These things were done in the presence of the United States Senate, sitting as a court, considering the conduct of one Joseph R. McCarthy, a Senator from the State of Wisconsin.

I wish to give two quotations from that speech. The first one is very interesting, as it shows the cavalier way in which he tosses off the question of denouncing the committee. This is what he said:

> Denouncing a Senate committee and its members? Why, Senators have done this with varying degrees of gusto from time im-

memorial—sometimes (as I believe to be the case with the Gillette committee) with justification, sometimes without it—but always with impunity, inasmuch as this is a land of free speech.

I ask any Senator—I ask the junior Senator from Wisconsin—to name a similar circumstance in which any Senator denounced a committee which had been directed by a resolution to investigate him with the end in view of expelling him. In the history of the Senate I have looked for precedents. We have had the staff look for them, and we never found one quite like that. At various times individual Senators have denounced committees and their actions. But did Senators ever hear of one calling an entire committee dishonest and keeping it up from the safe distance of an office, doing it by letter rather than appearing in person to meet the committee face to face with the charges? Even after the Senate said the committee was honest, he did not appear before it, but continued a running attack on the committee.

I should be very much interested to have some of Senator McCarthy's friends cite to us a case in point, in which a Senator who was under charges before a committee carried on as Senator McCarthy did. I have never heard of such a case. It would be interesting to find such a precedent if it exists. I do not believe it does.

Another part of that famous speech, which some people have called a hit-and-run speech, is also very interesting. He placed the speech in the Record and then dashed off to Wisconsin to make another speech attacking me, or at least to give out an interview attacking me. This particular quotation has been discussed previously, but I wish to bring it to the attention of Senators again:

I would have the American people recognize, and contemplate in dread, the fact that the Communist Party—a relatively small group of deadly conspirators—has now—

Done what? That calls for affirmative action—

has now extended its tentacles to that most respected of American bodies, the United States Senate—

That required affirmative action from the outside. The Communist conspiracy outside extended its tentacles into the Senate—

that it has made a committee of the Senate its unwitting handmaiden.

I cannot give a better description of that statement than was given by the Senator from North Carolina [Mr. Ervin] yesterday and by others who have described it. We are either traitors or we are fools. Calling me a coward is a small matter compared with that. Calling me stupid is only one part of this charge.

As I told the Senate a little while ago, I have had some experience in working with Communists, and I think Senator McCarthy knows about that, because the two committees have cooperated to a certain extent, and they know of each other's activities. I do not need to make this statement for the sake of Senators, I do not need to present this point for their benefit; but I am convinced, by the tactics used by the junior Senator from Wisconsin, that he cares very little about the Senate. He is making his plea to the American people. As I remember, after the committee report was made, he was quoted as saying that that was what he intended to do. He was sure we were going to censure him. In other words, there was to be a "lynching bee." He has been making his appeal to the people of the United States.

It so happens that a man with whom I worked, and for whom I have great respect, although we frequently differed on some matters, wrote me a letter in this connection. We did not differ on the matter of hunting Communists. He wrote me a letter during his lifetime. I refer to a man whose sincerity in the fight against communism cannot be doubted for a single solitary moment. I refer to the late lamented Hon. Pat McCarran, of the neighboring State of Nevada. Ordinarily I would not read this communication, but for the information of Senators and others, it ought to be read. The letter is as follows:

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
June 23, 1952.

Hon. ARTHUR V. WATKINS,
United States Senate,
Washington, D. C.

MY DEAR SENATOR: Your willingness to upset your own schedule, on a Sunday, and to disregard your own personal convenience, in order to make a hasty flight to New York to facilitate the business of the Internal Security Subcommittee seems to me worthy of special commendation, and I want to thank you on behalf of the subcommittee. You have been most assiduous throughout the session in aiding the work of the Internal Security Subcommittee, so that your action in accepting a special and unusual burden on Sunday was completely in character; yet I think it does deserve special mention.

Without such assistance as you have given, from yourself and from other members of the subcommittee, it would have been impossible to have carried on the work as it has been carried on.

I have been informed that after you had agreed to go to New York on Sunday on the subcommittee's business you became indisposed; notwithstanding which, you sought no change in the schedule and made no effort to get out from under the responsibility you had accepted. This also was in keeping with your character as I have come to know it.

Thanks, again, both for the Internal Security Subcommittee and for myself as chairman; and kindest personal regards.

Sincerely,

PAT MCCARRAN,
Chairman.

It so happens that the special mission on which I went to New York City involved a very delicate matter which was being investigated by the Internal Security Subcommittee. A witness was to arrive at the International Airport in New York City. I will not say from what part of the earth he was coming. He was wanted as a witness before the subcommittee, and I was delegated to hold a special session of the subcommittee for the purpose of getting that man's testimony. He was to appear before the subcommittee the minute he stepped off the plane at the International Airport. That was done, and that testimony has been preserved. It was highly confidential and highly classified in nature. It was very important testimony that the committee wanted me to get.

I come now to a part of the discussion which I would rather avoid. However, I see no way to avoid it. As we have followed the course of this entire matter, it has been possible for me to touch on only the high spots. However, there are a great many other actions the junior Senator from Wisconsin has taken in his attempt to keep the committee under constant attack. We were not in a position to debate the issues, because we had not yet filed our report with the Senate. We had prepared it and we were ready to file it. Continuous guerrilla warfare was waged against us by the junior Senator from Wisconsin and his journalistic friends and radio commentators and satellites throughout the United States in an effort to put us in bad with the people of the country.

It was abuse heaped upon abuse.

Lastly, in our own presence, here in the Senate, we have seen another example of the Senator's hit-and-run attack. Senators have seen what I have called to their attention, an attack on their representative, their agent. They have seen an attack made on that agent's courage and intelligence. They have heard the junior Senator from Wisconsin say that I am both stupid and a coward.

I am asking all my colleagues in the Senate—and it must be remembered that the members of the select committee were practically drafted for the job, and, so far as I am concerned, it was the most unpleasant task I have ever had to perform in all my public life—I am asking all my colleagues: What are you going to do about it?

Some people are inclined to say that what Senator McCarthy did with respect to the Gillette-Hennings subcommittee took place in another session of Congress and that all of that is outlawed, and therefore nothing can be done about it by the Senate.

I ask my colleagues: What about the attack here, in their presence? What is their attitude about that? That is what I want to know, and what all the members of the select committee want to know from all the Senators. It was the Senate that called us to perform this duty. Therefore, I ask what is going to be done about it. Not only do we on the committee ask that question, but that question is asked by all Senators who may some day have to perform a duty under similar circumstances. They would like to know what will be done about it.

The Senator from North Carolina [Mr. Ervin] asked the question:

Do we have the manhood in the Senate to stand up to a challenge of that kind?

I think we do. I may be a coward, but I will not compromise with that kind of attack, with the indecencies involved in it. I wish to make that point perfectly plain. There are, it seems, Senators who wish to arrive at a compromise. I say we should do what is in the best interests of the Nation and of the Senate. I will not compromise on matters of principle. How can the Senate hold

up its head among the other free deliberative bodies of the world unless it does something about this matter?

Some Senators say we must not set a precedent. I say if we do not dispose of this matter we will be setting a precedent which will approve conduct by any Senator similar to that charged in the present case. We have been asked the question whether we give up any of our rights to free speech when we come to the Senate. Any of our rights? I say that when we come to the United States Senate we come here as the representatives of our States, and we have a right to speak decently and in good taste, but we have no right unjustly to criticize, and we have no right to impugn the motives of our colleagues who are performing an official duty.

Let us consider what that charge means to the people of Utah, South Dakota, Mississippi, North Carolina, and Colorado. It is an insult to them, as well.

We are sent here as the representatives of the people of our States to do our duty in Congress. Many people thought the six Senators were unwise and very foolish to accept assignment to the select committee. What will they think when their representatives are insulted on the floor of the Senate? Except for the majority leader and the minority leader and 1 or 2 other Senators who spoke up, I have not heard one word of protest made publicly against that charge. I know there are many Senators who are waiting for an opportunity to speak. I know they want to make their statements. However, except for the speeches which have been made in behalf of Senator McCarthy—and, of course, anyone has a right to make such speeches—there was not one word of consideration expressed for the six Senators who had to endure that insult. Was there one word of protest heard from the Senate itself, except as I have already indicated? I shall give Senators an opportunity—and, so far as I am concerned, I hope such an amendment will be offered—to propose an amendment to the censure resolution by adding another section calling attention to the contempt which was committeed in the presence of all Senators and providing for censure.

We are a court here. There is another Court across the street, housed in a great marble palace. It is the Supreme Court of the United States. Could any officer of that Court—and attorneys are officers of the Court, although not officers quite in the same sense as we are in the Senate—could any officer of the Supreme Court make a similar charge against one of the Judges of that Court and not be immediately haled before it for contempt, whether the statement was made in the presence of the Court or outside? Would any other court in the land stand for it?

If we have any judicial function and if we have any judicial office, I do not know how we can escape our duty. It may be an unpleasant duty, but no more unpleasant than the one the Senate gave the select committee to perform. I hope Senators will have to vote on that question.

If no one moves such an amendment—and I shall give Senators plenty of opportunity to do so—the man from Utah who has been called a coward will do it.

Now I should like to call attention to some other portions of the report made by the Gillette-Hennings subcommittee. The subcommittee made some statements which I believe are entitled to careful consideration. The subcommittee states:

In Senate Resolution 187, this subcommittee had before it, at the outset, merely the issue of determining the merits of Senator Benton's charges relating to Senator McCarthy's fitness to sit in the Senate. As indicated, Senator McCarthy was invited to attend subcommittee hearings on six occasions to present his explanations of the issues raised in Senate Resolution 187 and the investigation made pursuant thereto. Three of the invitations were extended prior to the Senate vote on April 10, 1952, and three invitations were extended subsequently. Senator McCarthy should have known that the most expeditious way to resolve the issues would have been to appear before the subcommitee to make such statements and refutations of the charges as he saw fit. For reasons known only to Senator McCarthy, he chose not to accept this course, but to charge that the allegations were a smear and that the subcommittee was dishonest and doing the work of Communists. Between October 1951 and April 1952 he refused to honor the invitations of the Subcommittee on Privileges and Elections on the grounds that it lacked jurisdiction and that the members of said subcommittee were dishonest in their motives for insisting on any investigation, which, he contended, was solely because of his exposure of Communists in Government. Subsequent to April 10, 1952, and in the face of the Senate's 60–0 vote confirming the integrity of the members of the subcommittee and its jurisdiction to investigate the matters involved, Senator McCarthy continued to reject the invitations of the subcommittee to appear before it for the purpose of presenting testimony in explanation of the issues raised by the investigation, and continued his attack upon the members of the subcommittee.

Such action on the part of Senator McCarthy might appear to reflect a disdain and contempt for the rules and wishes of the entire Senate body, as well as the membership of the Subcommittee on Privileges and Elections.

"Reflect a disdain and contempt for the rules and wishes of the entire Senate body"—that is one of the mildest understatements I have read in a long time.

For much the same reason, the subcommittee did not subpena members of Senator McCarthy's office staff and family, or his close associates. Until very recently, there was a chance that Senator McCarthy would himself come in to give explanations with respect to the many transactions under question which he has had with such persons, and which will be mentioned later in this report. Senator McCarthy, by his failure to cooperate, placed those people in the position where, if they had been subpenaed, they would have had to give testimony and explanations which Senator McCarthy had refused to give or else be in contempt of the Senate. It would have been an unfair position to place them in.

Then, Mr. President, there is a statement from the same subcommittee on page 11 of the report. I am going to read only a portion of it, and then I shall ask unanimous consent that the entire statement be placed in the Record.

The record of what took place thereafter leaves the inescapable conclusion that Senator McCarthy deliberately set out to thwart any investigation of him by obscuring the real issue and the responsibility of the subcommittee by charges of lack of jurisdiction, smear, and Communist-inspired persecution. Senator McCarthy's methods, his contempt for the subcommittee's efforts, even after the unanimous vote of the entire Senate, and his refusal to cooperate in any way, were very effective up to a point, but did not resolve the issue. The subcommittee was continually faced with the alternative of having to throw up its hands and admit that the task of investigating Senator McCarthy was too difficult and unpleasant, or to keep proceeding with the inquiry, which raised additional questions with respect to his activities as a Senator.

By his attacks upon the subcommittee, which hampered its progress, Senator McCarthy nevertheless kept the inquiry open. His charges, as set forth in his letter of December 6, 1951 (exhibit 6), that the subcommittee was spending tens of thousands of dollars and had a horde of investigators going into his life back to a time before he was old enough to sit in the Senate, are, of course, without foundation. The record will reflect that the great percentage of the investigation of Senator McCarthy has been conducted by one staff member. This was particularly true until the subcommittee staff was reconstituted in September and October of this year.

That is what the Gillette subcommittee found. The junior Senator from Wisconsin never offered anything but his own opinion and conclusion, even before our committee.

Mr. President, I should like to read one further statement which appears on page 14 of the report, and I hope all Senators will look at it and at the exhibits. It will be an eye opener, and to read them in full would be very helpful:

This subcommittee is reluctant to become involved in matters concerning speeches and statements. It has already made a report on its investigation into the 1950 Maryland senatorial campaign, including Senator McCarthy's participation therein, and feels this report speaks for itself. It should not be necessary to state that the subcommittee in its effort to in no way give aid to communism or detract from anything which has been done to prevent Communist infiltration in Government or elsewhere, has scrupulously attempted to avoid any issues wherein its position might be misinterpreted. It does not intend to go into matters relating to Senator McCarthy's activities prior to the time he was a candidate for the United States Senate, except insofar as such information may be necessary to a better understanding of later financial matters treated with.

The PRESIDING OFFICER. Has the Senator requested unanimous consent that the remainder of the statement be incorporated in the Record?

Mr. WATKINS. I make that request, Mr. President.

There being no objection, the remainder of the statement was ordered to be printed in the Record, as follows:

WHY THE SUBCOMMITTEE DID NOT SUBPENA SENATOR MCCARTHY

There would appear to be no reason, under the law, why Senator McCarthy would not be subject to a subpena issued by this subcommittee summoning him to appear before it for questioning. Although recognizing its authority, the subcommittee did not choose to do so. Senator McCarthy is a Member of the same Senate from which such authority to subpena stems and, until this

year, was a fellow member of the Senate Committee on Rules and Administration, the parent of this subcommittee. He is quite familiar with the rules governing the operation of the Senate and the responsibility placed upon the individual Members by committee assignments. The issues of this case involve an internal procedure of the Senate itself, stemming from the Constitution, whereby that body has the authority and responsibility for keeping its own house in order.

In Senate Resolution 187, this subcommittee had before it, at the outset, merely the issue of determining the merits of Senator Benton's charges relating to Senator McCarthy's fitness to sit in the Senate. As indicated, Senator McCarthy was invited to attend subcommittee hearings on six occasions to present his explanations of the issues raised in Senate Resolution 187 and the investigation made pursuant thereto. Three of the invitations were extended prior to the Senate vote on April 10, 1952, and three invitations were extended subsequently. Senator McCarthy should have known that the most expeditious way to resolve the issues would have been to appear before the subcommittee to make such statements and refutations of the charges as he saw fit. For reasons known only to Senator McCarthy, he chose not to accept this course, but to charge that the allegations were a smear and that the subcommittee was dishonest and doing the work of Communists. Between October 1951 and April 1952 he refused to honor the invitations of the Subcommittee on Privileges and Elections on the grounds that it lacked jurisdiction and that the members of said subcommittee were dishonest in their motives for insisting on any investigation, which, he contended, was solely because of his exposure of Communists in Government. Subsequent to April 10, 1952, and in the face of the Senate's 60–0 vote confirming the integrity of the members of the subcommittee and its jurisdiction to investigate the matters involved, Senator McCarthy continued to reject the invitations of the subcommittee to appear before it for the purpose of presenting testimony in explanation of the issues raised by the investigation, and continued his attack upon the members of the subcommittee.

Such action on the part of Senator McCarthy might appear to reflect a disdain and contempt for the rules and wishes of the entire Senate body, as well as the membership of the Subcommittee on Privileges and Elections.

For much the same reason, the subcommittee did not subpena members of Senator McCarthy's office staff and family, or his close associates. Until very recently, there was a chance that Senator McCarthy would himself come in to give explanations with respect to the many transactions under question which he has had with such persons, and which will be mentioned later in this report. Senator McCarthy, by his failure to cooperate, placed those people in the position where, if they had been subpenaed, they would have had to give testimony and explanations which Senator McCarthy had refused to give or else be in contempt of the Senate. It would have been an unfair position to place them in.

THE REASON FOR THE LONG DELAY IN THE INVESTIGATION AND REPORT

The subcommittee desires to be the first to admit and, further, resent that Senate Resolution 187 pertaining to Senator McCarthy has taken up an excessive amount of its time and has deprived the members thereof of time and effort which they could have spent on other pressing matters for which, as Senators, they were responsible. The magnitude of the unpleasantness connected with the assigned responsibility of the present inquiry can only be demonstrated by setting forth, as above, the record of what transpired. It is quite apparent that too much of the time from September 1951 through June 1952, and again between November 7 and December 12 of this year, was spent in carrying on correspondence with Senator McCarthy and smarting from his diverse attacks upon the membership of the subcommittee. The subcommittee members did not ask for the assignment to investigate Senator McCarthy's activities. It was willing, as early as September 28, 1951, to hear him for the purpose of determining whether there was any merit to Senate Resolution 187. The record of what took place thereafter leaves the inescapable conclusion that Senator McCarthy deliberately set out to thwart any investigation of him by obscuring the real issue and the responsibility of the subcommittee by charges of lack of jurisdiction, smear, and Communist-inspired persecution. Senator McCarthy's methods, his contempt for the subcommittee's efforts, even after the unanimous vote of the entire Senate, and his refusal to cooperate in any way, were very effective up to a point, but did not resolve the issue. The subcommittee was continuously faced with the alternative of having to throw up its hands and admit that the task of investigating Senator McCarthy was too difficult and unpleasant, or to keep proceeding with the inquiry, which raised additional questions with respect to his activities as a Senator.

By his attacks upon the subcommittee, which hampered its progress, Senator McCarthy nevertheless kept the inquiry open. His charges, as set forth in his letter of December 6, 1951 (exhibit 6), that the subcommittee was spending tens of thousands of dollars and had a horde of investigators going into his life back to a time before he was old enough to sit in the Senate, are, of course, without foundation. The record will reflect that the great percentage of the investigation of Senator McCarthy has been conducted by one staff member. This was particularly true until the subcommittee staff was reconstituted in September and October of this year.

In the early fall of this year, the subcommittee was confronted with the burden of work which occurs incident to a national election (it also has the responsibility for matters pertaining to Presidential and Vice Presidential elections as well as senatorial contests, remedial legislation, etc.) and had reached a point where little progress was being made in the investigation of Senator McCarthy, because of the Senator's continued attitude, attendant charges and countercharges of partisanship on the subcommittee staff, leaks to the press, etc. As a solution, the subcommittee employed a new chief counsel, Paul J. Cotter, and a staff of experienced investigators. The only employee of the previous staff retained for work on the Senator McCarthy and Senator Benton inquiries was the one mentioned above, an accountant.

At this late date there was little time left to resolve the issues in view of Senator McCarthy's refusal to cooperate. It is true that much too much time and expense have been spent on the investigation of Senator McCarthy which, the record will reflect, was directly caused by the attitude and methods employed by said Senator.

In Senator Benton's charges against Senator McCarthy and also in Senator McCarthy's charges against Senator Benton, there were contained matters so controversial in nature that it would not be feasible for this subcommittee, or perhaps any other agency, regardless of its resources, to resolve.

This subcommittee is reluctant to become involved in matters concerning speeches and statements. It has already made a report on its investigation into the 1950 Maryland senatorial campaign, including Senator McCarthy's participation therein, and feels this report speaks for itself. It should not be necessary to state that the subcommittee in its effort to in no way give aid to communism or detract from anything which has been done to prevent Communist infiltration in Government or elsewhere, has scrupulously attempted to avoid any issues wherein its position might be misinterpreted. It does not intend to go into matters relating to Senator McCarthy's activities prior to the time he was a candidate for the United States Senate, except insofar as such information may be necessary to a better understanding of later financial matters treated with.

Mr. WATKINS. Mr. President, I wish to conclude with one statement from the report of the select committee concerning the responsibility of a Member of the Senate when he is under charges before any of its committees. Here is a statement which should go down in history. If it is not the rule now, it should be. It goes back to the days when God wrote with His own finger on the tablets of stone the Ten Commandments. It grows out of the basic concepts of Christianity. The principle has developed through the English common law, and it stems from the best traditions of our law and government and of the governments of the free world. It should be guide for men in high office. I read:

> It is the opinion of the select committee that when the personal honor and official conduct of a Senator of the United States are in question before a duly constituted committee of the Senate, the Senator involved owes a duty to himself, his State, and to the Senate to appear promptly and cooperate fully when called by a Senate committee charged with the responsibility of inquiry. This must be the rule if the dignity, honor, authority, and powers of the Senate are to be respected and maintained. This duty could not be and was not fulfilled by questioning the authority and jurisdiction of the subcommittee, by accusing its members of the dishonest expenditure of public funds, or even by charging that the subcommittee was permitting itself to be used to serve the cause of communism. When persons in high places fail to set and meet high standards, the people lose faith. If our people lose faith, our form of government cannot long endure.

Let me add, Mr. President, that when a Senator takes the oath of office to defend and to support the Constitution of the United States, that pledge is not merely with reference to a documen containing certain words. It goes to the living Constitution. That living Constitution consists not only of words but the Office of the President, the Supreme Court, the Senate, and the House of Representatives which those words create. When a Senator does or says things which injure those institutions, he is violating his oath to defend and uphold the living Constitution of the United States.

Mr. President, I yield the floor. [Applause.]

Mr. WELKER. Mr. President, before making use of my prepared remarks I wish to say to the Senate that it is not my desire to speak in rancor or bitterness. It is my purpose merely to discuss the facts as I view them, facts which I believe will confront the United States Senate for years to come. However, I cannot and shall not permit to go unchallenged certain remarks made

by my distinguished colleague from the State of Utah [Mr. WATKINS].

I do not know why people act as they do, whether it be the junior Senator from Wisconsin, the chairman of the select committee, or the junior Senator from Idaho. I have not tried to impress the Members of this body with the manner in which I have tried lawsuits and in so doing have attempted to protect the Constitution, the defenseless, and the oppressed. I do not know of any litigation in which I have ever been involved, whether it be direct litigation or quasi-litigation, in connection with which, at the conclusion of the proceedings, the parties participant went outside and kissed each other regardless of the decision.

I wish the RECORD to be completely clear at this time, Mr. President, that I am somewhat concerned with respect to the attitude which has been taken upon the floor of the Senate regarding a fundamental rule which has governed this body for many, many years, namely, the rule concerning the power of the Senate of the United States.

I have heard it said that the junior Senator from Wisconsin should be criticized for remarks which he has made upon the floor of the Senate. Nowhere have I heard it said that the author of Senate Resolution 301 should be criticized for the remarks he made upon the floor of the Senate when he called the junior Senator from Wisconsin a Hitler and stated that he was aiding and abetting the Communist cause.

I could go on and on and relate the unfortunate incidents which have happened before our very eyes, but I have no desire to do so. I shall be as honest and fair with you, Mr. President, and with other Members of this great body, as I can be. But I am sorry that some persons have seemed to take adverse attitudes and have discussed matters in the heat of passion—yes, in the heat of anger.

While the distinguished chairman of the select committee was discussing the attitude of and remarks made by the junior Senator from Wisconsin about and before the Subcommittee on Privileges and Elections and the select commitee, I recalled that only yesterday evening I read in the newspapers and heard broadcast all over the world a statement made by my friend, the distinguished Senator from Utah, in reply to a question asked by the junior Senator from Wisconsin, who at this time happens to head a duly constituted committee of the Senate. The senior Senator from Utah stated publicly, for all the world to hear, "I do not believe you would ever be satisfied unless you could find someone who could be shot or hanged." Mr. President, does such a remark tend to bring great repute to this august body?

Again, I wish to inquire who constitute the rule-making authority of the Senate? As I understand the rule, any motion to suspend the rules requires a two-thirds vote.

But, according to paragraph 2, of rule XIX, any Senator who makes remarks derogatory of the character of another Senator, or which tend to bring such Senator into disrepute, can be taken summarily off the floor by an objection.

If it is desired to change the rules of the Senate, let us get down to business. But in this very solemn and sad day in the Senate, regardless of whether the situation concerns the junior Senator from Wisconsin, or my friend, the distinguished senior Senator from Virginia [Mr. BYRD], I say let us play the game according to the rules.

I have heard statements made in the heat of passion that none of us like, and which we do not like to hear said about a fellow Senator, regardless of what he has done or whence he has come. But it is about time for us to stop and think whether or not it is contemptible and abusive to say that the members of the select committee adopted, at least in part, the charges of the junior Senator from Vermont [Mr. FLANDERS], who admitted on the floor of the Senate on July 31, 1954, that his charges were, at least, in part, prepared by the Committee for a More Effective Congress. The junior Senator from Wisconsin, as I understand, said that those Senators were the unwitting tools of the Communist Party.

Every Member of the Senate knows that the six members of the select committee are loyal, dedicated Americans, as are all other Members of the Senate.

Contrast that with the statement made—and I heard it made, as we all heard it made—yesterday, in which a great and fine Senator stated that the junior Senator from Wisconsin should apologize for certain of his remarks; that his failure to do so would show his lack of moral capacity to serve in the United States Senate. Or that, in the event the junior Senator from Wisconsin apologized, he should be expelled because of his mental incapacity. Those were pretty harsh words coming from one who serves in the United States Senate.

Mr. ERVIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. WELKER. I am glad to yield.

Mr. ERVIN. I have never said, at any time or at any place, that the junior Senator from Wisconsin [Mr. MCCARTHY] should apologize.

Mr. WELKER. Then certainly I misunderstood the Senator in his statement on a national forum, a publicity program called Meet the Press; and I misunderstood the Senator yesterday. If I am wrong, I apologize to my friend from North Carolina. But I will challenge the record upon that score.

When I interrogated the junior Senator from North Carolina as to whether he would submit a resolution to expel the junior Senator from Wisconsin, why did not the Senator from North Carolina come forth and say that he would or he would not do it? Instead, he said that he was a junior Member of the United States Senate, that he was new here, and that he felt such a resolution should be offered by someone else.

I happen to be comparatively new in the Senate. The distinguished junior Senator from North Carolina, has just as much power in this august body as does the senior Member of the Senate. His vote counts just as much as does the vote of one of the elder statesmen who lead our great body.

As I have said, it seems to be all right for some Senators to impugn the motives of the distinguished junior Senator from Wisconsin; but apparently it is not all right for the motives of other Senators to be impugned. I have never encountered such debate as this in the almost 4 years I have been a Member of the Senate.

It may be remembered that in the first days of this debate I referred, in my interrogation of the distinguished junior Senator from South Dakota [Mr. CASE], to the intemperate remarks made at one time by my friend, a great statesman, the former senior Senator from Texas, Mr. Connally, with respect to the immortal Bob Taft—Robert A. Taft—when Senator Taft was campaigning for the nomination for the Presidency of the United States. It was a vicious statement, made when I was acting as minority leader, and was seated where the distinguished majority leader is now sitting, to the effect that Senator Taft was a political chameleon, who changed his colors to fit certain occasions, and that he had been in Texas, stooping and seeking slimy, filthy, dirty votes.

It was a vicious debate in which I engaged with that great debater, far abler than I shall ever be. But no resolution of censure was submitted. The incident was passed over, because it was realized that in the rough-and-tough of debate and in trying to do a job as the promptings of the heart suggest that it be done in the best interests of the country, it is difficult indeed to be temperate.

Again, I remember very well the occasion, on September 10, 1951, when 2 great Democrats became involved in a heated debate, in which 1 Senator, far the senior of the other, accused the other Senator of aiding and comforting the Communist enemy. My colleagues no doubt remember that that incident was publicized to all the world; the insult was made known, to the serious damage of the Senator who was accused.

Mr. President, one of the things I like to remember about my service in the Senate is that I was interrogated in the accused Senator's home State. So far as his political faith is concerned, I do not think I have ever voted with him once in the 4 years I have been a Member of the Senate, but the question was propounded to me as to whether that Senator would ever give aid and comfort to the enemy. I stated then, and I repeat now, that he was a great, loyal, courageous American, and I would stand by him to the end.

Mr. President, the distinguished Senator from Utah has defined at last the capacity in which we are sitting. I think he stated we are sitting as a court, with every last one of us a judge to try the facts and to apply the law. I wish to ask my colleagues who are learned in the law whether or not they ever heard used in a trial court operating under Anglo-Saxon law, or on a motion for a new trial presented such intemperate

and biased language as has been used in the Senate against the man who is before the bar of justice for a decision as to whether he is to be censured by the Senate of the United States, which is the fourth time in American history such a proceeding has been brought.

Mr. President, I hope we can leave personalities out of the debate. I beg and pray we can discuss the matter in honorable, reasonable debate. I could go on and on, and refer to extremely vitriolic debates that have been held in the Senate, brought to my attention by the distinguished Parliamentarian, Charley Watkins, and the former Vice President, Mr. Barkley, who will soon be back with us. I could relate, not one, but hundreds and hundreds of cases where the language used in debate was just as vicious—yes, I say nearly twice as vicious—as any language used by the junior Senator from Wisconsin, or even language used by Senators who have opposed the junior Senator from Wisconsin.

Mr. President, those of us who sit here as judges had nothing whatsoever to do with picking the select committee; its members were selected by our leaders, to which I had no objection. At the outset of the hearings of the Select Committee To Study Censure Charges—the Senator from Utah, as chairman, made this statement:

> By way of comment, let me say that the inquiry we are engaged in is of a special character which differentiates it from the usual legislative inquiry. It involves the internal affairs of the Senate itself in the exercise of a high constitutional function.

Mr. President, I wish to invite attention to the words "a high constitutional function," because that will be a major premise of the remarks I have to make this afternoon. I continue to read what the chairman of the select committee said at the outset of the hearing:

> It is by nature a judicial or semijudicial function, and we shall attempt to conduct it as such. The procedures outlined are not necessarily appropriate to congressional investigations and should not, therefor, be construed as in any sense intended as a model appropriate to such inquiries. We hope what we are doing will be found to conform to sound senatorial principles and traditions in the special field in which the committee is operating.

Then this select committee, composed of several members, all good Americans and friends of mine, three of whom would in a court of law be disqualified by previously indicating bias and prejudice against the Senator from Wisconsin—as will be later shown—proceeded to disregard totally the express wording of the United States Constitution, and to try the Senator from Wisconsin on charges that are nowhere in the Constitution specified as punishable when applied to a Member of Congress.

Article I, section 5, clause 2, of the United States Constitution provides:

> Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds, expel a Member.

Senate Resolution 301, together with the various amendments proposed, was referred to the Select Committee To Study Censure Charges. This committee was, by order of the Senate dated August 2, 1954, instructed to act and make a report to the Senate prior to the adjournment sine die of the Senate in the second session of the 83d Congress. The original resolution is as follows:

> *Resolved*, That the conduct of the junior Senator from Wisconsin is unbecoming a Member of the United States Senate, is contrary to senatorial traditions, and tends to bring the Senate into disrepute, and such conduct is hereby condemned.

All of the amendments insert specifications of acts of the Senator from Wisconsin as reasons for the condemnation. Nowhere in the original resolution, or in the amendments, is it alleged that such acts constitute disorderly behavior so as to bring the action under the constitutional provision stated above. The resolution states that Senator McCarthy's conduct is contrary to senatorial traditions and tends to bring the Senate into disrepute, and as such "is hereby condemned."

That resolution is contrary to precedents of the Senate in similar cases.

Let me cite first the case of Senators Benton and Foote, which occurred on April 17, 1850. On this occasion Senator Benton, of Missouri, during the course of a debate with Senator Foote, of Mississippi, advanced on him in a threatening manner. Foote drew a pistol. After the participants were quieted, the following resolution was introduced:

> *Resolved*, That a committee of seven be appointed to investigate the disorder of today in the Senate, and that they report to the Senate what befits the occasion, and have power to examine witnesses and take testimony in the case. (Congressional Globe, 31st Cong., 1st sess., pt. 1, p. 763.)

The committee appointed reported to the Senate July 30, 1850. No Senate action was recommended and the matter was dropped—Congressional Globe, 31st Congress, 1st session, part 2, page 148.

2. SENATORS TILLMAN AND M'LAURIN (FEBRUARY 22, 1902)

Now let me refer to the second case of that sort in our history, namely, the case of Senators Tillman and McLaurin. It occured on February 22, 1902.

Senator McLaurin, on the floor, stated that Senator Tillman made a statement about him that was "a willfull, malicious, and deliberate lie"—Congressional Record, volume 35, part 3, page 2087. Senator Tillman attacked McLaurin, and a scuffle followed. They were separated, and the Senate immediately went into executive session behind closed doors. After 2 hours and 40 minutes the doors were reopened, and an order of the Senate was unanimously passed which reads as follows:

> That the two Senators from the State of South Carolina be declared in contempt of the Senate on account of the altercation and personal encounter between them this day in open session and that the matter referred to the Committee on Privileges and Elections (then a standing committee) with instructions to report what action shall be taken by the Senate in regard thereto.

Then, on a motion agreed to, the two Senators were given permission to address the Senate for the purpose of making an apology in order to purge themselves of contempt. This was then done by each of them (Id., p. 2089). Six days later the Committee on Privileges and Elections reported a resolution of censure for disorderly behavior, and the resolution further canceled the contempt order. It should be noted that the effect of the contempt order was to suspend their functions as Senators for the 6 days intervening between the incident and the resolution of censure (Id., pp. 2205–2206). Sections 2 and 3 of Senate Rule XIX were adopted as a result of this fracas.

3. SENATOR BINGHAM CENSURE (NOVEMBER 4, 1929)

The third "censure" case in the history of the United States Senate was the so-called Senator Bingham censure case. It is a distinct and radical departure from precedent set by the two preceding actions I have described. The resolution upon which the Senate acted reads as follows: Senate Resolution 146, 71st Congress, 1st session.

> *Resolved*, That the actions of the Senator from Connecticut, Mr. Bingham, in placing Mr. Charles L. Eyanson upon the official rolls of the Senate at the time and in the manner set forth in the report of the subcommittee of the Committee on the Judiciary (Rept. No. 43, 71st Cong., 1st sess.) is contrary to good morals and senatorial ethics and tends to bring the Senate into dishonor and disrepute, and such conduct is hereby condemned. (Id. p. 5063.)

This resolution was amended by inserting before "is contrary," the words, "while not the result of corrupt motives on the part of the Senator from Connecticut." The resolution passed, 54 to 22 (id., p. 5131).

The departure from precedent is first noted in the wording of the resolution. The two previous cases, by resolution, referred the consideration of the incidents of misbehavior to committees for study and report on what action should be taken. The committees were then authorized to take any one of several courses. They could first decide whether the offending Senator was guilty of disorderly behavior; and, if so, what punishment should be recommended. In the first case, no disciplinary action was recommended. In the Tillman-McLaurin case it was found by the committee that the Senators were guilty of disorderly behavior—the constitutionally defined offense; and censure was recommended as punishment therefor. In sharp contrast to those two cases, the Bingham resolution states the alleged offense and specifies the punishment—"and such action is hereby condemned." It gives no leeway to decide whether the Senator was guilty of disorderly behavior—the constitutional ground; and it allows no choice of punishment, because the punishment is specified in the resolution.

Let me digress for a moment to refer to the nature of the punishment of official condemnation or censure. The serious, real, effective nature of such a punishment was accurately described by my respected colleague, a man of great learning in law and in the legislative

field, the highly respected junior Senator from Texas [Mr. DANIEL]. I quote from page 12919 of the CONGRESSIONAL RECORD of July 31, 1954:

Some persons may say that is not so much of a punishment, but, Mr. President, I know of not many greater punishments which a Member of this body could suffer than to be condemned for his conduct by his fellow Senators.

The second departure from precedent noted in the Bingham case is that the incident of alleged misconduct was not referred to a Senate committee for consideration and report. The entire action was consummated on the floor of the Senate following a report of a subcomittee of the Judiciary on lobbying activities. While it is true that the committee had heard evidence on the Bingham case, including testimony of the Senator, it heard that evidence in relation to lobbying activities, and not in relation to disorderly behavior of the Senator. Even though the condemning facts were brought out in that hearing, it was still precedent for another committee to decide what should have been done about disciplinary action and so report to the Senate before the Senate was to take its formal action. Such had been done in the Benton-Foote case and in the Tillman-McLaurin case, even though the alleged disorderly behavior had transpired in full view of the Members of the Senate.

In the present case the established precedents and the wording of the Constitution are again ignored. This is evidently done in an attempt to follow the departures noted in the Bingham case. But in this action much more of a departure is contemplated. I refer to the attempt to punish for a series of unrelated incidents extendings to a time long prior to the election of the Senator from Wisconsin to his present term in the Senate.

TIME AS AN ELEMENT IN PAST CENSURE ACTIONS

In all the disciplinary proceedings heretofore instituted in the Senate and in the House, the actions were commenced promptly at the time of the incidents alleged to be punishable or shortly thereafter. All of such actions were based on single incidents, never on a chain of unrelated incidents.

In the Benton-Foote and the Tillman-McLaurin cases, disciplinary action was started immediately following the happening of the incidents on the floor. The Bingham case was commenced within 1 week after the Senate was notified of Senator Bingham's alleged censurable conduct.

Mr. President, at this point I digress long enough to say that I regret indeed to see that the distinguished chairman of the select committee, the senior Senator from Utah [Mr. WATKINS], is not in the Chamber at this time. I regret his absence, because I should like very much to have him question me or cross-examine me about my remarks. Regardless of whether my views are correct or incorrect, at least they are my views; and I have spent months in legal research on this matter. I want the Senate to know the facts, as I am sure the distinguished senior Senator from Utah wishes to have the Senate know them.

Furthermore, I do not see in the Chamber at this time either the distinguished counsel of the select committee or his assistant. I think those of us who sit as judges in the Senate should have these men here, because if they are not learned in the law involved in this matter, they should become learned in it; and if they are learned in it, they certainly will wish to have me answer interrogations regarding the law, as I view it.

Mr. President, now resuming the text of my remarks, let me say that Jefferson's Manual specifically provides that censure for words spoken on the floor must be taken notice of even before another Member has spoken or other business has intervened—section XVII, page 325 of 1953 edition, Senate Manual. The manual further states, "and this is for the common security of all."

The select committee cites instances of censure in the House "even after he"—a Member—"has resigned." A study of these citations, which will be found on page 22 of the committee report, shows that in each of the three incidents cited the resignation of the Member accused was submitted during the disciplinary action and was submitted to avoid expulsion. The House, then, could not expel a Member who had resigned but had to settle for a censure.

Our judicial system, whether it be in the Senate of the United States or in the justice court of Bay Horse, Idaho, takes cognizance of time as an element. Statutes of limitation have been enacted to prevent undue delay in bringing prosecutions. The necessity for such statutes is obvious, because, among other things, time destroys a man's proofs of innocence.

In the present case the acts for which censure is sought extend back to the 1944 Wisconsin primaries and include unrelated incidents from that time up until the Army-McCarthy hearings of June 1954. The select committee states that—

There is no basis for declaring that the Senate may not censure one of its own Members for conduct antedating that session, and no controlling authority or precedent has been cited for such position.

On the other hand the committee can cite no precedent to support its contention that such action is proper. The precedent that it is improper to censure for acts preceding an election was set, as I shall soon make evident. In any event it is false logic to say, "We can do this because there is no precedent to show that we cannot do it." Furthermore, the Senate has the precedent of 165 years of existence without once attempting to punish a Member for acts prior to his election. This is a late date to assume that such a power exists.

The Supreme Court of the United States has handed down several decisions pertaining to this constitutional provision. In *Kilbourn* v. *Thompson* (103 U. S. 189) the Court said:

The punishment of Members of Congress for disorderly behavior may be, in a proper case, by imprisonment, and it may be for refusal to obey some rule on that subject made by the House for the preservation of order (id., p. 189).

The Court further stated that the constitutional provisions of article I, section 5, clause 2, "are equally instructive in what they authorize and in what they do not authorize."

In this connection, it should be recognized that a resolution of censure as a predetermined method of punishment is not authorized by the Constitution. If censure is authorized, it is authorized only as one of the forms of punishment of a Member for disorderly behavior. That Member must first be found guilty of disorderly behavior, as contemplated by the Constitution. The Constitution is silent as to "conduct unbecoming a Member of the United States Senate, contrary to senatorial traditions, and [which] tends to bring the Senate into disrepute"—the charges filed against the junior Senator from Wisconsin. It could very well be decided that the Senator was guilty of those charges specified in the resolution, but still not guilty of disorderly behavior, and therefore not subject to punishment by censure or other means.

Let me make this point eminently clear. The major portion of my life, in the practice of my profession of law, has been spent, first, in prosecutions and later in defense. If my bitterest enemy on the opposite side of the aisle were facing the same situation the junior Senator from Wisconsin now faces, I say unhesitatingly that, if he would permit me to do so, I would do my best to make the legal argument I am now making. Moreover, neither Senator MCCARTHY nor his able counsel, nor anyone else associated with him, had anything whatsoever to do with the preparation of this memorandum setting forth what I consider to be the law.

The junior Senator from Texas [Mr. DANIEL] correctly expressed the judicial nature of this proceeding, as follows:

Mr. President, since a resolution of this nature, if adopted, would call for a conviction and a punishment, we must recognize that judicial standards of American jurisprudence should apply. (CONGRESSIONAL RECORD, July 31, 1954, page 12920.)

One of the most important judicial standards of American jurisprudence is that a trial must be fair and impartial. In the case of *Adams* v. *U. S. ex rel. McCann* (317 U. S. 275), Justice Frankfurter, on page 275 of that opinion, said:

Certain safeguards are essential to criminal justice. The court must be uncoerced, *Moore* v. *Dempsey* (261 U. S. 86), and it must have no interest other than the pursuit of justice, *Tumey* v. *Ohio* (273 U. S. 510). The accused must have ample opportunity to meet the case of the prosecution.

In *Patterson* v. *Colo.* (205 U. S. 454) Justice Holmes said:

The theory of our system is that the conclusions to be reached in a case will be induced only by evidence and argument in open court, and not by any outside influence, whether of private talk or public print. What is true with reference to a jury is true also with reference to a court.

Certain segments of the press that I call left-wing and certain commentators whom I call left-wing have indulged in

more abuse and spread more smear all over the country and all over the world than has the junior Senator from Wisconsin. Whether that constitutes outside influence, I am not attempting to say, because I cannot and I will not attempt to read the minds of the six distinguished Members of the Senate who were given this hard task by the Senate itself.

The Supreme Court of Colorado in *Arridy* v. *People* (82 P. 2d 757) said:

> It remains the duty of courts only to safeguard the rights of a defendant and see that he has a fair and impartial trial under the law of the State as it now is, not under what we wish it might or should or may be at some time in the future.

With this admonition in mind, consider the fact that the Senate has no censure or condemnation proceeding set up by its own rules. Censure or condemnation is only one form of punishment which may be prescribed upon a finding of disorderly behavior. In the future if the Senate desires to adopt a code of procedure whereby a Member may be censured for acting contrary to the traditions of the Senate, or for actions unbecoming to a Member of the Senate, then the Senate can set up such a code and try its Members under it; but until then the Senate must try its Members under the law as it now is, extralegal or illegal precedents notwithstanding.

The Supreme Court of Mississippi in the case of *Fisher* v. *State* (110 So. 361), gave this definition:

> Perhaps no precise definition can be given it (a fair trial) but it certainly must be one where the accused's legal rights are safeguarded and respected. There must not only be a fair and impartial jury and a learned and upright judge to instruct the jury and pass upon the legal questions, but there ought to be an atmosphere of calm, in which the witnesses can deliver their testimony without fear and intimidation, and in which the attorneys can assert the defendants' rights freely and fully, and in which the truth may be received and given credence without fear of violence.

Who is that fair and impartial judge, sworn as a jurist, who can instruct us honorably and fairly and profoundly with respect to the law? As I view it, we are in a dilemma. Who is the judge to instruct us as to the law? We are not all lawyers. Those of us who are lawyers have forgotten most of the instructions we prepared when presenting a case to a jury. In other words, I say that every Member of the Senate is placed in a very difficult and embarrassing position, according to Anglo-Saxon law and tradition, which we have cherished all these years.

SIXTH AMENDMENT

Since it is agreed by all that in this proceeding against the junior Senator from Wisconsin judicial standards of American jurisprudence should apply so far as humanly possible, and since the select committee commenced the hearings with a firmly expressed determination to be guided by constitutional rights, it is appropriate to call to the attention of the Senate the fact that an important provision of the sixth amendment has been totally disregarded by the framers of the indicting resolution and by the select committee.

I specifically call attention to this provision contained in the sixth amendment to the Constitution:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial—

I underscore the next words I quote from the amendment—

> and to be informed of the nature and cause of the accusation.

Construing the meaning of this constitutional provision, I quote from *U. S.* v. *Potter* (56 F. 83):

> In order properly to inform the accused of the nature and cause of the accusation, within the meaning of this amendment and of the rules of common law, not only must all the elements of the offense be stated in the indictment, but they must also be stated with clearness and certainty.

In other words, if a Senator is to be punished for disorderly behavior as is permitted under the Constitution, he must be directly charged in the indicting resolution with disorderly behavior. It means nothing, under the Constitution, to be charged with conduct unbecoming a Senator or conduct contrary to senatorial traditions. Conduct unbecoming a Senator can be any unusual act or speech.

Mr. President, the distinguished senior Senator from Maryland [Mr. BUTLER] came into this great body at the same time the Senator from Idaho became a Member. We have witnessed conduct which certainly would be censurable under the censorship resolution prepared by the junior Senator from Vermont [Mr. FLANDERS]. I recall such incidents very well. They were not words or deeds. I recall the opening day of the baseball season when the New York Yankees played the Washington Senators in Washington. I was to be the next speaker on a radio program just before leaving for the ball park. The Senator from Maryland left for the ball park with me at a late hour.

Mr. President, what we are considering is of vast importance. It is not trivial. If we establish this precedent it might well happen that the Senator from South Dakota, the Senator from Indiana, or any other Senator might become similarly involved.

Mr. President, I was a rather young Senator in those days—as I still am—when a debate presided over by the late Senator Blair Moody, of Michigan, was on the air. It involved the junior Senator from New York [Mr. LEHMAN], the junior Senator from Minnesota [Mr. HUMPHREY], the senior Senator from Indiana [Mr. CAPEHART], whom I have affectionately nicknamed "Slugger" since that day, and the late Senator Robert A. Taft.

At the end of that vigorous radio program tempers were indeed strained and actual physical violence occurred at that time. The Senator from Indiana [Mr. CAPEHART] threw out of the broadcasting studio into my arms the Senator from Minnesota [Mr. HUMPHREY], a friend of mine. The Senator from New York [Mr. LEHMAN] then decided to get into the fray, on the back of the Senator from Indiana. He was, in turn, thrown back into the studio. The late Senator Taft—I never knew he came from the West—"bulldogged" the Senator from New York [Mr. LEHMAN], took him around the head and led him out; and soon thereafter peace and quiet prevailed.

News of the incident came out of that studio and went out all over the world. Was there a resolution of censure with relation to that incident of actual physical violence in the Senate radio facility?

I have often wondered, since this question arose, why we have picked out one Senator. Should we not have fundamental rules applying to the strong and the happy, as well as to those who are not so strong, who are unhappy and probably not so brilliant as many Senators think they are?

Whether or not such conduct is censurable is not to be discussed by me at this time, but if the select committee is right in its conclusions we may take up this reflection on senatorial tradition and many similar past incidents, whether or not the perpetrator of the incident is still in the Senate. Let me again say that there would be no Senator picked out from this side of the aisle or from the Democratic side of the aisle who would not get what little ability I could give him in his defense. We could take up such a case, according to the select committee, even though the offending Senator has long ago gone to be judged by the Great Justice by whom we must all sooner or later be judged.

I am surprised that the United States Senate, composed as it is of some of the best legal minds in the country, has attempted to indict a Member in the wording of Senate Resolution 301, in complete disregard of the specific ground for accusation contained in the Constitution, and in direct opposition to the safeguards provided by the sixth amendment to the Constitution. I am more surprised that the select committee has seen fit to act on a resolution so worded.

Permit me another quotation concerning the propriety of such an indictment:

> This is a reaffirmation of the essential principles of the common law, but puts it beyond the power of either Congress or the courts to abrogate them. It follows, as a matter of course, that the effect of this provision commences with the statutes fixing or declaring offenses, and, as to them, insures the general rule of the common law that they are not to be construed to embrace offenses which are not within their intention and terms. This does not mean that all the elements of a crime must be set out in the statute on which the prosecutor relies, nor that the statute may not create an offense by the use of inapt or imperfect phraseology, but they must be in some way declared by the legislative power, and cannot be construed by the courts from any supposed intention of the legislature which the statute fails to state. (*U. S.* v. *Potter* (C. C. Mass. 1892, 56 F. 83, 88), reversed on other grounds (15 S. Ct. 144, 155 U. S. 438, 39 L. Ed. 214).)

At this point, Mr. President, I desire to dispel any possible supposition that I am attempting to invoke legal technicalities on behalf of the junior Senator from

Wisconsin. On the contrary, I am insisting that basic, legal, constitutional procedure be followed by the Senate of the United States in its action. This great deliberative body, under the Constitution, participates in making laws which are binding on the entire country. Such laws are so worded that everyone has notice of the nature of any violations which may be contemplated. In criminal law the exact nature of a crime is expressed; the penalty, sometimes flexible, is provided, and upon conviction the court imposes the punishment it deems to be appropriate. I am insisting that in the pending case, which is in the nature of a criminal action, punishment of a Member being involved, we, the Senate of the United States, apply the same principles of constitutional law that apply to all our land.

I am insisting, Mr. President, that if we seek to punish a Member for an offense punishable under the Constitution we indict him for that offense as described by the Constitution—"disorderly behavior"—not for conduct contrary to senatorial traditions, or conduct unbecoming a Member of the Senate. Such conduct—unbecoming a Member of the Senate—we have witnessed many a time, and have invoked no disciplinary action. Would you not say, Mr. President, that it is unbecoming a Member of the Senate to appear on the floor of these hallowed premises in a state of intoxication, to be led off the floor of this great deliberative body, in full view of a crowded gallery, to be saved being made a further object of scorn, and to prevent obstruction of the legislative process of this body? Yet we have seen incidents of this nature, and crowded galleries have seen such incidents. I do not wish to convey the impression that such incidents are common; they are not, but they have happened at infrequent intervals. I am naming no offenders in this respect, but I am merely calling attention to one form of conduct unbecoming a Member of the Senate. There are many, many other incidents which fall within the category of conduct unbecoming a Member of the Senate.

My contention, Mr. President, is that we should heed the directions printed in the Senate Manual. I again refer to page 306 of the 1953 edition thereof, and quote as follows:

> And that we must therefore have a power to punish these disturbers of our peace and proceedings * * *; that Congress have no such natural or necessary power, nor any powers but such as are given them by the Constitution; that that has given them, directly, exemption from personal arrest, exemption from question elsewhere for what is said in their House, and power over their own Members and proceedings; for these no further law is necessary, the Constitution being the law; that, moreover, by that article of the Constitution which authorizes them "to make all laws necessary and proper for carrying into execution the powers vested by the Constitution in them" they may provide by law for an undisturbed exercise of their functions, e. g., for the punishment of contempts, of affrays or tumult in their presence, etc.; but, till the law be made, it does not exist, and does not exist from their neglect; * * *. But if one branch may assume its own privileges without control, if it may do it on the spur of the occasion, conceal the law in its own breast, and after the fact committed, make its sentence both the law and the judgment on that fact; if the offense is to be kept undefined and to be declared only ex re nata—

A Latin phrase meaning "out of the thing born"—

> and according to the passions of the moment, and there be no limitation either in the manner or measure of the punishment, the condition of the citizen will be perilous indeed.

And, I might add, the condition of a Senator, as well as of another citizen, will be perilous indeed.

The correct interpretation of these quotations from Jefferson's Manual—and it is obvious, Mr. President—is that if we desire to punish our Members for unbecoming conduct, we should set up a code for that procedure under our constitutional power to punish for disorderly behavior. If we wish to punish for refusal to answer an invitation to testify before a Senate committee or for abusive cross-examination in committee hearings, the elements of such offenses should be described in such a code; and the punishment—whether it be censure, fine, imprisonment, or expulsion—should be stated. Until the time when such a code shall be adopted, the power to punish does not exist, and it does not exist because of our own neglect.

To proceed further with this disciplinary action under our present lack of a code of ethics is to proceed, as Thomas Jefferson said, "ex re nata," which means "out of the thing born"; in other words this disciplinary action was born out of the incidents which are not covered by law; we are attempting to make the law and the punishment after the occurrence of the fact and according to the passions of the moment. That is exactly the procedure of dictator-controlled countries; and in those countries the condition of the citizen is perilous indeed, even as predicted it would be by Thomas Jefferson.

I now turn to the facts as alleged in the resolution of censure, and to the findings and recommendations of the select committee. I shall discuss, first, the nonacceptance of the invitation to appear before the committee.

The junior Senator from Wisconsin did not accept various offers to appear before the Committee on Privileges and Elections. These offers varied in form from a September 25, 1951, notification by Chairman Gillette to the effect that the junior Senator from Wisconsin could be present to hear Senator Benton in executive session, to a May 7, 1952, letter from the same chairman offering "the opportunity to appear at the hearings for the purpose of presenting testimony relating to the charges being considered against him." Then on November 21, 1952, the then chairman, Senator HENNINGS, sent a telegram to the junior Senator from Wisconsin as follows:

> Today you were advised by letter delivered by hand to your office of the principal matters which the subcommittee desires to interrogate you in furtherance of your express desire transmitted to the committee by your administrative assistant, Mr. Ray Kiermas, under date of November 10. The subcommittee appreciates your willingness to help in the completion of the work in connection with the investigation of Resolution 187 and the investigations predicated thereon. Your prompt appearance before the subcommittee can save the Government much effort and expense. We are sure that you want to be of help to us in arriving at a proper determination of the issues in controversy. We are therefore at your disposal in executive session and for your convenience suggest that the subcommittee is available to you commencing with tomorrow, Saturday, November 22, but not later than Tuesday, the 25th, to enable the committee to hear you and allow time thereafter to prepare the subcommittee report. Senator Benton has also been notified to appear by similar communication. This action is being taken at the direction and with the full concurrence of the committee members (p. 47 of the hearings).

I think the evidence is uncontradicted that the junior Senator from Wisconsin was unable to appear in answer to that telegram because he was at the time on a deer-hunting trip, and the telegram was not delivered until after the date set for his appearance.

Please bear in mind, Mr. President, that all of these offers or invitations to appear before the committee were made with the express understanding that the Senator from Wisconsin, if he chose to appear, would have no opportunity to cross-examine witnesses against him. The select committee commented on this phase as follows, on page 28 of the report:

> He also stated that he would not appear unless he were given the right to cross-examine witnesses. We feel that this right should have been accorded to him and that upon proper request, either to the Committee on Rules and Administration, of which Senator MCCARTHY was a member (p. 27 of the hearings), or to the Senate itself, he could have obtained this right, but that in any event, this cannot be a justification for contemptuous conduct.

Mr. President, I should now like to digress for a moment to ask the judges who are sitting in the Senate to try this very serious matter was there ever a case in which a man charged with a criminal offense, or an offense punishable in any way, had to go to the Committee on Rules and Administration, or to the Senate of the United States, in order that he might have that right which is given to the worst criminal—the right to cross-examine those who have appeared against him?

Let me pause to suggest how I would consider such an invitation to appear. I have already stated my opinion of the committee which was considering charges against the junior Senator from Wisconsin. That opinion was printed in the Los Angeles Herald Express in the form of a telegram to Senator GUY GILLETTE, the chairman, under date of September 9, 1952, as follows:

> I have just received a copy of the telegram of resignation of a staff member, Jack Poorbaugh, who was appointed by the subcommittee.

Mr. Poorbaugh was an investigator employed by the then majority, the Democratic majority. I resume reading from the telegram:

> As you have been notified several times by me, I have felt this committee was being

used as a political vehicle by the Democratic Party.

I will have no more of this and I will not attend the hearings that you have called in Washington for September 26. I beg of you that you grant a fair hearing to the complainants arising out of the Missouri primary.

That was another question before the Gillette subcommittee on Privileges and Elections.

I have been ready to go to St. Louis for weeks and all we are confronted with are delays.

I say again that the taxpayers of this Nation do not want their money spent in an attempt to hush up complaints on one side and smear candidates and officeholders on the other. I hand you my resignation from this subcommittee forthwith.

In view of the proposal made by the committee, I assume that because of that telegram, I probably will be the next Senator brought up—I will be batting second—in the censureship rally that I am so afraid may continue in the Senate for years to come.

Mr. President, I have probably unduly cross-examined distinguished members of the select committee with respect to why I was not permitted to appear before the committee and give it any evidence I had in hand or about which I knew. The fact that I was not permitted so to appear caused me to be a little unhappy—yes, quite unhappy—about the committee.

It will be recalled that on August 2, the distinguished chairman, the Senator from Iowa [Mr. GILLETTE], in response to a question propounded to him by me, when I asked if it was not a fact that in our secret, private sessions, he heard someone eavesdropping at the door, and that he opened the door, and found there someone more than casually interested in those proceedings, admitted that that was a fact.

Mr. President, I feel it is only fair that I unburden my heart, no matter what these judges may do to me, because I say to my distinguished judges who are present that it is my opinion that the testimony which was taken was leaked out to New Deal, leftwing columnists before the stenographers had time to transcribe the testimony.

I can continue to cite other examples, but I merely wish to add that I interrogated distinguished members of the select committee as to why I should not be permitted to testify, when, as I understand the order given to the committee by the Senate of the United States, it was the committee's duty to seek evidence, and to find the truth in this matter. I did not try to entrap anyone. I merely wished to ascertain why it was not desired that the junior Senator from Idaho should be heard. What answer did I get? I got the answer that had I desired to appear, I was probably only 1 of 162 million people who did not know what was going on in Washington, D. C. In other words, I should have left a sick bed, traveled at my own expense, without even an invitation—an interloper, if you please—and volunteer what, if any, testimony I could give the committee.

Why did the select committee not tell me why I was not to appear? I knew the answer all the time. I have read every bit of the report. I knew why the junior Senator from Idaho was not permitted to appear. Why was it? It was because of the ruling of the chairman of the select committee, which will be found on page 296 of the hearings, which reads as follows:

The only matter this committee is interested in is whether a resolution had been introduced authorizing the investigation, and, second, was it being carried on, and did it have jurisdiction.

Mr. CASE. Mr. President, will the Senator yield for a question?

Mr. WELKER. I am glad to yield to the Senator from South Dakota, because he was very kind to me the other day.

Mr. CASE. I was wondering if the Senator from Idaho would not change the word "permitted," which he just used in his statement. I personally do not know of any suggestion that the Senator should appear before the committee, and the use of the words that the junior Senator from Idaho was "not permitted" to appear would leave the impression that the issue was raised before the committee. I am not aware that the issue was ever raised.

Mr. WELKER. Does the Senator assume that the junior Senator from Wisconsin and his counsel, Mr. Williams, would be so naive as to ask me to come back to Washington, D. C., nearly 3,000 miles away, leaving a sickbed, when I had not had a subpena served upon me, or an offer had not been made that I testify, when a ruling had been made which would have made all my testimony absolutely immaterial and irrelevant, and which therefore would have made my trip a sightseeing trip, and nothing more? That is why I used the words "not permitted." If I am in error in using them, I certainly do not wish to abuse anyone on that score. So if my friend, the Senator from South Dakota, would prefer to have me ask why I was not invited to appear before the select committee, I shall use the word "invited"; it makes little difference.

Mr. CASE. I thank the Senator from Idaho.

Mr. WELKER. But in view of the ruling, I have said that I was not permitted to appear; because when the "court" rules, one is making a "dry run" from a long, long distance away, if he comes to Washington under those circumstances, knowing that his testimony would not be accepted.

Mr. CASE. Mr. President, I appreciate the willingness of the Senator from Idaho to change the phrase, because when he said "not permitted," I thought there was an implication that the question had specifically come up. I do not think the question was ever raised; at least, it was not according to my knowledge.

Mr. WELKER. In answer, I would say to my friends of the select committee that if I had been in a similar position, knowing that a fellow Senator was on trial and that another Senator had resigned from the subcommittee, for reasons I have heretofore related, and for other reasons, I believe I would have been courteous enough to him to have invited such a Senator to appear and tell his story. Whether the select committee took judicial notice of it or cognizance of it is immaterial. However, it was brought to the attention of the select committee in the brief filed by Mr. Williams. His brief appears at page 562 of the record of the select committee's hearings.

However, notwithstanding the fact that the members of the select committee heard my remarks in the Senate Chamber on August 2, or they should have—and I am sure they did; and notwithstanding the further fact that counsel for the junior Senator from Wisconsin brought out the point in his brief, as appears on page 562 of the record of the select committee hearings, never once was I invited to appear or did I have an opportunity to appear or, may I say, was I permitted to appear there.

Mr. CASE. Mr. President, will the Senator from Idaho indulge me for an observation at this point?

The PRESIDING OFFICER (Mr. COOPER in the chair). Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. WELKER. Very well; I yield.

Mr. CASE. I may say that if the issue had come up, or if the matter had been specifically suggested by counsel for Senator MCCARTHY, I think the members of the select committee would have thought the Senator from Idaho might have had something to contribute.

In any event, let me say to the distinguished Senator from Idaho that I think he has something to contribute to the debate. I have been sitting here this afternoon, listening to everything he has said; and I intend to listen to his entire speech, for I believe he is making an interesting and worthwhile contribution to the subject.

Mr. WELKER. I thank the Senator from South Dakota. Let me repeat that, being a trial lawyer—I have never been a jurist, and I never wish to be one—I would not wish to butt my head against a stone wall, in the face of a direct ruling that all the select committee was interested in was, first, whether a resolution authorizing the investigation had been submitted; second, whether the investigation was being carried on; and third, whether the committee had jurisdiction. The taking of such a position put me "out of bounds," so to speak. Let us take a look at the record if my distinguished friend doubts me on that score, because much hinges on that one thing; much important testimony hinges upon it. It goes not only to my failure to appear before the select committee, but it also goes to the fact that the Gillette subcommittee had knowledge that a man who unfortunately had been adjudged incompetent had given some vicious testimony. I wish to make that clear.

Mr. President, I appreciate the remarks of my friend, the Senator from South Dakota.

At this point let me say that the telegram I quoted a moment ago sets forth my opinion of the Gillette subcommittee's objective. As I told my distinguished friend, the Senator from South Dakota, I would deem it foolhardy to accept an invitation to appear when I knew that my testimony would constitute nothing, in view of the fact that the

"court" had ruled. Regardless of what Senator was thus brought before the bar of justice, whether Senator McCARTHY, Senator CASE, Senator SCHOEPPEL, Senator POTTER, my friend friend—and all Senators are my good friends—or the great and distinguished junior Senator from Georgia, RICHARD RUSSELL, I would deem it foolhardy for any accused Senator to accept an invitation to appear if he had no right to cross-examine his accusers. Under such circumstances I would not feel it my duty to appear. Instead, I would think of the invitation offered by the spider to the fly, "Won't you step into my parlor?"

In any event, let us see what other Senators have done when confronted by similar circumstances.

At this point, Mr. President, let me say that I wish to have this presentation carefully followed. I shall not refer again to the large group of Senators who are absent from the Chamber at this time. I am delighted that my distinguished friends who serve on the select committee have seen fit to remain here and listen to my remarks. Let me repeat that I think it is a dark day in the history of the United States Senate, when we are trying a fellow Member, regardless of his political affiliation or from whence he comes, to be confronted with so many empty seats in this Chamber, in view of the fact, as heretofore related to the Senate, that each Senator is a judge of the facts and the law in the case. However, if the resolution is adopted by the Senate, I suppose we shall "just have to take it."

Mr. President, the present case relates to a very sound proposition of law, inasmuch as it has to do with a precedent of the Senate in yesteryear. First, I should like to tell the Senate about another Senator from Wisconsin who declined to appear before a subcommittee of the Committee on Privileges and Elections, under circumstances which in some respects bear a remarkable resemblance to those presented in the instant case. The similarity between the cases is so amazing that I should like to tell the Senate in some detail about the other Senator, whose name, as some Senators probably have guessed, was Robert M. La Follette, Sr. The subcommittee before which he refused to appear had been called to consider certain resolutions of the Minnesota Public Safety Commission looking toward his expulsion for disloyalty to the United States. That charge was predicated largely upon an allegedly pro-German speech he had delivered in 1917. Senator La Follette demanded that the subcommittee apprise him of the charges against him, namely, of the portions of his speech which allegedly were disloyal. The subcommittee chairman—and I suppose many of the senior Members of this body remember Senator Atlee Pomerene, of Ohio, by name, at least, even if they do not remember him in person—wrote Senator La Follette a letter, informing him that the subcommittee would not accord him that right. The chairman's letter went on to state:

> The subcommittee assumes that if the statements in the speech are well founded in fact you will be glad to so testify and to give your authority for them. If they are not, its members believe you will be eager to correct them and thereby aid the committee in arriving at the real facts. In any event they feel that the simplest and most direct way to conduct the inquiry is to invite you to appear before it as the one witness best qualified to verify the statements contained in your speech or to make such explanations as you may desire to make, and to give the committee the sources of your information.

That was from the chairman of the subcommittee to another Senator from Wisconsin, Senator Robert M. La Follette.

I continue to quote:

> The subcommittee renews its invitation of the 12th instant, for you to appear before it at the committee room of the Committee on Privileges and Elections at 10:30 a. m. on the 16th day of October, 1917, and hopes you will accept it.

On October 16th, the subcommittee met at 10:30 in the committee room. Senator La Follette was present. The following highly significant exchange took place:

> The CHAIRMAN. Senator La Follette, it was the desire of the committee to interrogate you concerning some of the statements of fact in this speech——
>
> Senator LA FOLLETTE (after apologizing for arriving late). I appear here, Mr. Chairman, to submit to you in the form of a letter, addressed to you as chairman of this subcommittee, all the statement that I deem it proper or necessary for me to make at this point, and I now present that statement.
>
> I will say good morning to the committee. (Senator La Follette thereupon withdrew.)

The Senator's letter pointed out that twice before he had requested the subcommittee to advise him which statements of fact in his speech were now challenged. He stated that "common courtesy" required the subcommittee to furnish him with this information, that he believed in the accuracy of every statement in the speech and that he would prove the accuracy of every statement if he was afforded a fair opportunity to confront and cross-examine any and all persons denying the accuracy of such statements. He said that then, and not before, he would produce witnesses and evidence in his own defense.

The record shows, Mr. President, that Senator La Follette never produced 1 witness or 1 piece of evidence in his own behalf. He never appeared before the subcommittee to answer any of the charges against him, despite the fact that these charges reflected upon his personal honor and official conduct in a way that none of the charges before the so-called Gillette subcommittee could possibly reflect upon the personal honor and official conduct of the present junior Senator from Wisconsin. The record further shows, Mr. President, that no voice was ever raised on this floor to demand the censure of that Senator from Wisconsin for his failure to appear.

The La Follette case did come to the floor of the Senate for action on a resolution of the Committee on Privileges and Elections dismissing the petition "for the reason that the speech in question does not justify any action by the Senate"—CONGRESSIONAL RECORD, volume 57, part 2, pages 1506 to 1527.

The committee resolution was passed 50 to 21, 25 not voting.

Here was a man who, in time of war, was accused of making a pro-German speech. He was invited to appear, and, like the brave man that he was, he went before the subcommittee and told it that he would not appear.

Are we going back to precedents, or are we playing a game, merely because someone does not like the junior Senator from Wisconsin? If it is a question of not liking the junior Senator from Wisconsin, next day it may be some other Senator. It may be I, or any other Member of this body.

PRECEDENTS CONCERNING FAILURE TO APPEAR BEFORE COMMITTEE ON PRIVILEGES AND ELECTIONS

The select committee has recommended that the Senator from Wisconsin be censured for conduct "contemptuous, contumacious, and denunciatory, without reason or justification, and obstructive to legislative processes"—page 31 of the report—in failing to appear before the Committee on Privileges and Elections at various times during 1952.

Let me make a personal observation. I believe that those descriptive adjectives, used against a fellow Senator, whether it be Senator McCARTHY, Senator AIKEN, or any other Senator, are just about as vicious and bad as anything the junior Senator from Wisconsin ever said about General Zwicker or anyone else.

I shall devote my next remarks to this subject, even though, as I have demonstrated, it is not a proper ground for disciplinary action under the Constitution and the existing laws, as well as the rules of the United States Senate.

The select committee, in effect, predicated its recommendation on the failure of the junior Senator from Wisconsin to appear and prove himself innocent of charges which the Committee on Privileges and Elections was investigating. That is another way of saying, "You are guilty, Senator, because you have not proved yourself innocent." In what respect, I ask, does that resemble any form of Anglo-Saxon jurisprudence? It is not necessary for me to comment upon what a weird interpretation of American jurisprudence is such a theory. However, if Senators doubt that the select committee arrived at such a conclusion of guilty because not proven innocent, I read from page 30 of the report, as follows:

> It is our opinion that the failure of Senator McCARTHY to explain to the Senate these matters: (1) Whether funds collected to fight communism were diverted to other purposes inuring to his personal advantage; (2) whether certain of his official activities were motivated by self-interest; and (3) whether certain of his activities in senatorial campaigns involved violations of the law; was conduct contumacious toward the Senate and injurious to its effectiveness, dignity, responsibilities, processes, and prestige.

Bear in mind that he had been denied the right of cross-examination. I wonder what the great Senator, Robert M. La Follette, now long gone, whose voice was heard all over the world, would have said had he been charged with those things. He would have said exactly what he said to the subcommittee of the Com-

mittee on Privileges and Elections, as I have heretofore related.

Nos. 1 and 3 of the above quoted charges are certainly of a criminal nature, and No. 2 is possibly of such a nature. The Senator from Wisconsin would certainly be answerable, in the proper jurisdiction, to the courts of our land if he were guilty of such charges. Let us see what is the established precedent of the Senate in such cases.

I should like to make this further observation. Had he been guilty of those charges, does any Senator suppose for a moment that the Truman administration, which certainly did not have high esteem for the junior Senator from Wisconsin, would not have prosecuted him, if possible?

THE CASE OF HUMPHREY MARSHALL, A SENATOR FROM KENTUCKY (FEBRUARY 26, 1796)

Within four years after the adoption of the first 10 amendments to the Constitution, the legislature of the State charged Humphrey Marshall with the crime of perjury and the governor transmitted the memorial to the United States Senate for its action. The committee to whom it was referred reported against the jurisdiction of the Senate.

The committee decided:

If in the present case, the party has been guilty in the manner suggested, no reason has been alleged by the memorialists why he has not long since been tried in the State and district where he committed the offense. Until he is legally convicted the principles of the Constitution and of the common law concur in presuming that he is innocent, and the committee are compelled, by a sense of justice, to declare that in their opinion the presumption in favor of Mr. Marshall is not diminished by the recriminating publications which manifest strong resentment against him.

And they are also of the opinion that as the Constitution does not give jurisdiction to the Senate the consent of the party cannot give it; and that therefore the said memorial ought to be dismissed. (Senate Election Cases 1789–1913, Senate Documents, vol. 9, p. 163; also Hinds Precedents, vol. 2, p. 858.)

This rule would certainly apply to the 4th, 5th, 6th, and possibly all of the charges against Senator McCARTHY made by the Hennings committee in the letter of November 10, 1952—page 45 of select committee hearings on Senate Resolution 301, 83d Congress, 2d session.

CASE OF KING AND SCHUMAKER, IN THE 44TH CONGRESS

The Judiciary Committee of the House was charged to inquire, "What action should be taken by the House in reference to the persons now Members of the House, King and Schumaker, charged with complicity in the alleged corrupt use of money to procure the passage of an act—and with giving false testimony in relation thereto before the Committee on Ways and Means of the 43d Congress.

The report of the committee stated in part:

Your committee are of opinion that the House of Representatives has no authority to take jurisdiction of violations of law or offenses committed against a previous Congress. This is purely a legislative body, and entirely unsuited for the trial of crimes. The fifth section of the first article of the Constitution authorizes "each House to determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a Member." This power is evidently given to enable each House to exercise its constitutional function of legislation unobstructed. It cannot vest in Congress a jurisdiction to try a Member for an offense committed before his election; for such offense a member, like any other citizen, is amenable to the courts alone. (44th Cong., 1st sess. H. Rept. 815, p. 2.)

Not only, Mr. President, does the select committee attempt to go against such old and established precedent, but it seeks to inaugurate a new precedent on the ground that since its contemplated action is not forbidden it has the power to do it.

The select committee stated on page 23 of its report, as follows:

From an examination and study of all available precedents, the select committee is of the opinion that the Senate has the power, under the circumstances of this case, to elect to censure Senator McCARTHY for conduct occurring during his prior term in the Senate, should it deem such conduct censurable.

Prior to the statement made above, the select committee on page 22 of its report said:

A Member may be censured even after he has resigned (2 Hinds' Precedents, 1239, 1273, 1275 (1907). Precedents in the House cannot be considered as controlling because the House is not a continuing body.

That statement, Mr. President, while true, so far as censure after resignation is concerned, is very misleading.

I will not charge that it is deliberately misleading, but I do say it conveys a false impression unless the citations of the committee are studied.

I am not trying to embarrass or ridicule the members of the select committee. Many times in the practice of my profession of law I have lost lawsuits. When I thought the courts of law had erred I took an appeal. That is the reason for the existence of courts of appeals. There would be no need for courts of appeal or for the Supreme Court, even, if all judicial decisions were proper and correct. I wish to make that point clear.

In each instance of censure after resignation—and they are all House incidents—the Member resigned while expulsion proceedings were in progress. The Member avoided expulsion because one cannot be expelled when he is no longer a Member. The House was obliged in those cases to settle for censure—otherwise no disapproval could be officially recorded.

Then, as to the citations of the select committee, concerning expulsion or censure for conduct occurring during a preceding Congress, I find—from a study of them—no instance wherein the conclusion of the select committee is supported. If I am wrong I should like to see the proof that I am wrong. I have studied this subject long and hard, and I should like to have pointed out any citation to the contrary of what I have said.

In fact, I find the opposite conclusion in King against Schumaker—cited by the select committee and heretofore cited by me. It is an instance wherein the House refused to go into acts prior to election to the sitting Congress. If I am in error in my study of the citations produced by the select committee I should like to be corrected. Please understand, however, I am not considering cases involving election frauds or incidents in such cases; by the very nature of the offense it is necessary to inquire into events that transpired before the election of a Member.

Mr. President, after making such references to a nonexistent precedent the select committee says that the junior Senator from Wisconsin can cite no authority to show that the Senate may not censure a Member for conduct antedating that session. I quote from page 22 of the report:

While it may be the law that one who is not a Member of the Senate may not be punished for contempt of the Senate at a preceding session, this is no basis for declaring that the Senate may not censure one of its own Members for conduct antedating that session, and no controlling authority or precedent has been cited for such position.

Mr. President, I have read at length, in interrogating members of the select committee, from several books which I greatly admire, including one the conclusions of which I think no Senator will deny. I refer to the Vanishing Rights of the States, written by a former Solicitor General of the United States, a doctor of laws, and the author of the Constitution of the United States, James M. Beck, a man who I think was generally recognized as one of the greatest authorities on constitutional law in this country. I wish to quote from his book, and I hope Senators will follow me closely. I quote from page 50 of the Vanishing Rights of the States:

In my judgment, the power of expulsion refers to some act of a Senator during his membership of the Senate, and the act must have some reference to the discipline of the Senate.

This is indicated by the words "punish its Members for disorderly behavior." If a Member persistently violated the rules of the Senate, and that body could no longer effectively function because of his deliberate interference with its labors, then the Senate, if it is to continue to exist, must have the power to preserve its discipline, and to do so must have the power to punish the Member "for disorderly behavior." The final sentence in the paragraph indicates that expulsion was contemplated as possible punishment, but such punishment was so extreme that it was wisely provided that, while ordinary punishment could be imposed by a majority of the Senate, the final punishment of expulsion must have the concurrence of two-thirds.

It may be—but I do not concede it—that if a Senator, during the period of his service, is proved to have been guilty of some crime, he can be expelled, even though the crime has no relation to the discipline of the Senate.

It is, however, equally clear that the act which would justify his expulsion must have taken place since his election. What he did prior to his election and qualification has been passed upon by the people of his State. In a political sense, it is res adjudicata.

Mr. President, I should like to have my southern friends listen to these words of wisdom. They represent good law. I have listened to their debate. Will they listen to me?

Mr. BARRETT. Mr. President, will the Senator from Idaho yield in order that I may suggest the absence of a quorum?

Mr. WELKER. I yield, with the understanding that I shall not thereby lose the floor.

Mr. BARRETT. Mr. President, with that understanding, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Abel	Ferguson	Magnuson
Aiken	Flanders	Malone
Anderson	Frear	Mansfield
Barrett	Fulbright	McCarthy
Beall	Gillette	McClellan
Bennett	Goldwater	Monroney
Bridges	Green	Morse
Brown	Hayden	Mundt
Burke	Hendrickson	Murray
Bush	Hennings	Neely
Butler	Hickenlooper	Pastore
Byrd	Hill	Payne
Capehart	Holland	Potter
Carlson	Hruska	Purtell
Case	Humphrey	Robertson
Chavez	Ives	Russell
Clements	Jackson	Saltonstall
Cooper	Jenner	Schoeppel
Cotton	Johnson, Colo.	Smith, Maine
Crippa	Johnson, Tex.	Smith, N. J.
Daniel, S. C.	Johnston, S. C.	Sparkman
Daniel, Tex.	Kefauver	Stennis
Dirksen	Kilgore	Symington
Douglas	Knowland	Thye
Duff	Kuchel	Watkins
Dworshak	Langer	Welker
Eastland	Lehman	Wiley
Ellender	Lennon	Williams
Ervin	Long	Young

The PRESIDING OFFICER. A quorum is present.

Mr. WELKER. Mr. President, just before the quorum call, I was reading from the book entitled "The Vanishing Rights of the States," written by the Honorable James M. Beck, a former professor of law, formerly Solicitor General of the United States, and also author of the book entitled "The Constitution of the United States." The RECORD will show that I quoted certain portions of his book, The Vanishing Rights of the States. At this time I wish to continue quoting from it, as follows:

> It is, however, equally clear, that the act which would justify his expulsion, must have taken place since his election.

Let me digress to say that I believe all authorities agree that article I, section 5, of the Constitution, which confers the only power either House of Congress has to penalize its Members, deals with acts of expulsion and acts of censureship as one.

I read further:

> What he did prior to his election and qualification has been passed upon by the people of his State. In a political sense, it is res adjudicata. A candidate for the Senate might have been guilty of embezzlement before his election, but the right of the people of that State to send an embezzler to the Senate, if it sees fit, is clear. Such decision is the sole right of the State.
>
> It must not be supposed that the general grant of power to each branch of Congress to determine the "qualifications" of its Members gives them an unlimited discretion in determining the question of membership in the body. The general language which the Constitution uses must be read in connection with the entire instrument and, thus read, it is unreasonable that the power to judge of the "qualifications" of its own Members, was or is, intended to destroy the rights of the States to select their own Representatives in Congress.
>
> The Supreme Court has said, in the case of *U. S.* v. *Ballin* (144 U. S. 1):
>
> "The Constitution empowers each House to determine times and rules of proceedings. It may not by its rules ignore constitutional restraints, or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained."
>
> To permit the Senate to expel a Senator on the ground that, before his election, he had been either a fool or a knave, would revolutionize our theory of constitutional government. All this had been passed upon before the Constitution was framed in the great John Wilkes controversy.

Now, Mr. President, I invite the attention of the Senate to page 54 of the book by this learned author. I read from the second paragraph on that page:

> The author has thus quoted every pertinent provision of the Constitution. Reading them together, it seems too clear for argument, that each State has the right to select from its people any representative in the Senate that it sees fit, irrespective of his intellectual or moral qualifications, and that the only limitations upon such choice are that he shall be 30 years of age, a citizen of the United States for at least 9 years, an inhabitant of the State, and that he shall not hold any office under the United States, and that he shall not have engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, unless in the latter contingency, the Congress, by a vote of two-thirds, shall remove such disability.
>
> In all other respects the right of the State is absolute and impaired. A State may have selected a Member of the Senate or secured his nomination by unworthy means. He may have spent more to secure such nomination than many would think proper or legitimate. He may be intellectually unfitted for the high office, and his moral character may, in other respects, leave much to be desired.
>
> The people of the United States may justifiably think that the State has sent to Congress an unfit man, who could add nothing to its deliberations, and whose influence may well be pernicious. Nonetheless, the State has the right to send him. It is its sole concern, and to nullify its choice is to destroy the basic right of a sovereign State, and amounts to a revolution.
>
> In this matter we must not be pragmatists.

That means meddlers or busybodies or opinionated persons.

I read further:

> If the Senate has the right to nullify the action of a sovereign State in this matter for good reasons, it has equally the right to nullify it for bad reasons. The State may send a representative to the Senate who has the intellectual ability of Webster and the unimpeachable morality of George Washington, but he may be a member of a political party which, at the time, is in a minority. If the Senate rejects such a man, it is possible that the plain usurpation of the power of the State cannot be questioned in any judicial proceeding. The sole remedy may be, as in the case of John Wilkes, in an appeal to the people, but while the victim might represent the majority of the people of his State, his party's representation in the Senate might well be only a minority, and thus the right of one State to select its own representative could be nullified as long as a majority of the Senate, composed of the representatives of other States, saw fit to refuse him his credentials, or as long as two-thirds of the Senate saw fit to expel him.
>
> If such a power exists, then the greatest of all States' rights has become little more than a "scrap of paper."

I should like to have some member of the staff of the select committee, or any of the members thereof, successfully dispute the authorities cited by and the arguments of this great author.

Now, in a more or less facetious vein, I think I should refer to another man, who apparently professes to be an authority upon this very subject matter. In an article entitled "What Ails the United States Senate?" he had this to say:

> Beyond all such efforts at internal reform to abolish abuses, there is, it should be pointed out, the problem of the electorate, the people themselves. After all, the real responsibility lies with the States for the kind of Senators they send to Washington. The electors of each State must realize that they are judged by the men they send. That judgment is automatic and inevitable.

The author of that profound statement, who seems to agree with the distinguished author I have heretofore quoted, was the author of Senate Resolution 301. I refer to the junior Senator from Vermont [Mr. FLANDERS], who was writing in the New York Times magazine of May 19, 1954. That quotation will be found on page 62 thereof.

Mr. President I wish to inform Senators that a new and able Member of the Senate, who was appointed by the Governor of the great State of Nevada to succeed the immortal Senator Pat McCarran, one of the greatest lawyers I have ever known, will discuss, for the benefit of the Senate, in a far more profound way than I have done, certain other constitutional questions upon this very subject matter. I have appeared against him in several cases in former years. I ask all the judges present to keep their minds open until the case is finally submitted to them. Senators are the sole judges of the law and the facts. I want them to hear the junior Senator from Nevada [Mr. BROWN] on the subject matter I have just discussed.

It is not the burden of the Senator from Wisconsin to prove that there is precedent to show that the power does not exist. It is the burden of the select committee and its staff, since they have asserted the power, to show that it does exist, and that they have failed to do. In any event, we are not considering conduct during a previous session of the Senate—as the select committee by its statement implies. We are now considering conduct prior to a Senator's term for which elected—conduct which has been passed upon by the electorate of his State—the great people, the sound people of the sovereign State of Wisconsin.

In that connection the Senate Committee on Privileges and Elections took the opposite view of that expressed by

the select committee. I quote from its report, page 52a thereof:

ADDENDUM TO SUBCOMMITTEE REPORT ON SENATE RESOLUTION 187 AND SENATE RESOLUTION 304

That is the report of the Gillette-Hennings Subcommittee on Privileges and Elections.

The foregoing report is based substantially upon testimony and exhibits which were presented before the Subcommittee on Privileges and Elections. However, because of a lack of continuity in the committee membership and delays beyond the control of the present membership of the committee, its preparation has given us great concern as a number of its aspects have become moot by reason of the 1952 election.

I digress to say that I think those words were written by my friend on that committee, the distinguished Senator from Missouri [Mr. HENNINGS], profound lawyer in his own right.

Quoting further:

Such facts therein as were known to the people of the States particularly affected have been passed upon by the people themselves in the election. Thus, as we pass our studies on to our colleagues of the incoming session, we want the Senate of the United States to understand that the committee's efforts have been harassed by a lack of adequate time and lack of continuity in the committee membership.

There will be forthcoming in the next few days a committee report embodying suggestions on remedial legislation affecting election laws and procedures.

Mr. KNOWLAND. Mr. President, will the Senator yield?

Mr. WELKER. I yield.

Mr. KNOWLAND. I wonder if the Senator would be willing to yield to me with the understanding that he shall not lose the floor when the Senate reconvenes at 11 o'clock tomorrow morning.

Mr. WELKER. I am most happy to do so.

Mr. KNOWLAND. Mr. President, I am about to move—except for insertions in the RECORD, or any brief statements Senators may wish to make at this time— that the Senate take a recess until 11 o'clock tomorrow morning.

I understand that the Senator from Utah [Mr. BENNETT] has a very brief statement to make.

Mr. BENNETT. Mr. President, will the Senator yield to me for a very brief statement?

Mr. KNOWLAND. I yield.

Mr. BENNETT. Mr. President, on November 10 I made a brief speech in the Senate expressing my concern about our ability to handle this problem without damage to the Senate. In that speech I did not indicate my position on the select committee's report. I remained silent deliberately, because I do not wish to make my decision until all the evidence is in. I did not wish then to be charged with having prejudged the issues, and I shall try to maintain that status. In that speech I said, in part:

We should be meeting as a court and if we fail to act in the judicial atmosphere, but choose to follow our usual legislative pattern of partisanship and personal predilection, we are bound to fail. Even if we arrived at the right decision, the wrong methods would provide damaging precedents for future problems.

Indeed, I think we would be in danger of committing the very offenses with which the junior Senator from Wisconsin has been charged—showing contempt for a Senate committee and abusing our power as Senators.

I continue to quote from my speech:

How could we show contempt for our committee?

First. By trying to challenge its fitness and authority.

I skip the second point.

Third. By trying to confuse the reported issues with extraneous and irrelevant matters, including the overall problem of communism.

Ever since the session began I have been disturbed by what the junior Senator from Wisconsin has said about the select committee, particularly about its chairman, my distinguished senior colleague [Mr. WATKINS].

Today, as my senior colleague cataloged for us the statements made about him and the select committee by the junior Senator from Wisconsin I realized that in my earlier remarks I may have come close to prophecy.

When the chairman of the select committee himself said today that he felt the statements of the junior Senator from Wisconsin did in fact constitute contempt of the select committee, and thus of the Senate itself, I realized that the Senate should have the right to pass on that question, and that I, the junior Senator from Utah, had the obligation, in defense of the honor of my colleague, and of the great State that both of us serve, to offer an amendment to the resolution, which will bring the problem before the Senate for its consideration. I therefore rise to announce that I shall be prepared at the appropriate time to offer such an amendment to the resolution.

At this time I wish again to express my faith in my colleague the senior Senator from Utah and in all members of the select committee. They had a difficult and disagreeable job to perform and they have done their work with great honor to themselves and to the Senate.

Mr. WELKER. Mr. President, will the Senator yield?

Mr. BENNETT. I am very glad to yield.

Mr. WELKER. I am not sure that I follow the Senator in his remarks. As I understand, the Senator will present to the Senate another resolution containing another charge against the junior Senator from Wisconsin. Is that correct?

Mr. BENNETT. I expect to offer an amendment to the pending resolution, suggesting that the junior Senator from Wisconsin has shown contempt for the Senate by his personal attack on the chairman of the select committee and on the committee itself.

Mr. WELKER. If the Senator will further yield, I trust the Senator from Utah has not closed his mind to all the evidence and the arguments in the case.

Mr. BENNETT. I tried to make clear in my statement that I was not closing my mind to the arguments and evidence on the two existing charges merely because I choose to offer a third charge for the consideration of the Senate.

Mr. WELKER. The third charge, of course, naturally would be referred to another select committee for study. Is that correct?

Mr. BENNETT. It is my understanding that it could be offered as an amendment to the pending resolution, without referral. The junior Senator from Utah sees no reason for referral of an amendment to the resolution, because everything that will apply to it has happened since the Senate came into special session. Much of it has happened in our hearing on the floor of the Senate.

Mr. WELKER. One further question. Has the Senator considered any of the remarks made by other Senators about the junior Senator from Wisconsin?

Mr. BENNETT. The Senator from Utah has not done so. If the Senator from Idaho feels that he wishes to offer an amendment based on that particular point of view, I am sure it is within his right to do so.

Mr. WELKER. The Senator from Utah knows that I have tried to be as impersonal in this matter as I possibly could. I have no desire to censure anyone in this matter. I am trying to do what little I can to prevent censure.

Mr. BENNETT. The junior Senator from Utah feels that when the senior Senator from Utah, his colleague, raised the question of contempt on the floor of the Senate, the junior Senator from Utah had an obligation, in support and in defense of his colleague, to bring the matter before the Senate. The junior Senator from Utah has obviously not yet attempted to produce the language in which the amendment will be offered. However, he is now giving notice of his intention to offer such an amendment, in such language as may seem to him to be proper and at such time as may seem to him to be appropriate.

Mr. WELKER. Will the amendment be one calling for expulsion or for censure?

Mr. BENNETT. The junior Senator from Utah has not gotten down to that detail. I think I can assure my colleague that it will not be a motion for expulsion. Of course, I am not a lawyer.

Mr. WELKER. The Senator need not assure me of anything. I am merely inquiring for the purpose of gaining information. I am sorry I interrupted the Senator.

Mr. BENNETT. The junior Senator from Utah, without having checked the matter with the Parliamentarian, feels that there would be some doubt about the wisdom of offering an expulsion motion as an amendment to a motion to censure. As I have already stated, at this point I have not prepared any language. Therefore I cannot give the Senator from Idaho any foreknowledge of the form the amendment will take. However, I shall be prepared to offer such an amendment.

Mr. WELKER. I thank the Senator.

During the delivery of Mr. WELKER'S speech,

Mr. CASE. Mr. President——

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. CASE. Will the Senator from Idaho yield for a unanimous-consent request?

Mr. WELKER. I yield for that purpose.

Mr. CASE. Mr. President, I ask unanimous consent that a memorandum which I have prepared may be printed in the RECORD. I assume it will appear at the conclusion of the remarks of the Senator from Idaho.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON DATES AND DATA ON ZWICKER-PERESS MATTER IN TWO LIGHTS

FIRST SITUATION

Prior to receipt Sunday of Secretary Stevens' letter dated November 13, 1954, the information before the select committee was that Senator MCCARTHY'S letter of February 1, had been made public that day when it was written but the natural assumption was that it would not reach the Pentagon before the next day, the day when, miles away Peress was discharged, and might not be sorted and considered until that afternoon or later.

In that light, the following was a natural impression of the situation:

January 22 or 23: General Zwicker gives McCarthy staff the name of Peress as the suspected Communist dental major for whom they are looking.

January 26: They notify Peress to appear for hearing.

January 30: First Peress hearing—he pleads 5th amendment.

January 31: No action by anybody.

February 1: Peress notifies Zwicker he wants discharge now instead of March 31. Zwicker notifies his superior next in line of Peress request. MCCARTHY makes public that he's writing the Pentagon about Peress.

February 2: With Stevens away, Army either "let's nature take its course" under original order to discharge Peress within 90 days or earlier if he requests; or, thinks "good idea to get rid of that guy MCCARTHY'S fussing about."

February 3: Stevens returns from Japan.

February 16: Stevens writes regrets to Joe, promises "it won't happen again."

February 18—A. M.: Second Peress hearing.

P. M.: Zwicker fences between his "personal knowledge" and "the files."

Joe finally "pops off" and abuses Zwicker for declining to criticize his superior officers.

SECOND SITUATION

Secretary Stevens' letter of last Saturday night, November 13, tells us for the first time that Senator MCCARTHY'S letter of February 1 was delivered by hand (messenger) and received the same day, referred by Counsel Adams to "a responsible staff board" who decided against "the suggestions" of the chairman of the Senate's Committee on Investigations and approved granting the Peress request, instead.

In this new light, things fall into a different focus, perhaps like this:

January 30 was Saturday: The first Peress hearing ends at 11:30 a. m., New York City. The final, almost chance question, as they were picking up papers revealed that Peress was resigning and would get an honorable discharge whenever he asked for it.

January 31 was Sunday.

February 1: Monday at camp, Peress sought Zwicker, requested immediate discharge.

In Washington, McCarthy's letter goes to Pentagon by messenger, says "file charges, hold Peress, probe his promotion, his escape from overseas duty, try to uncover infiltration network by searching associates and activities."

Army board huddles, Stevens to be back Wednesday, "nothing new to Joe's stuff," "Let's get rid of this red—we can't stick him anyway."

February 2: Tuesday, Army tells Zwicker to "follow your orders."

P. M.: Peress gets honorable discharge and escapes Army jurisdiction.

February 3: Late afternoon, Stevens gets back, next day gets briefing on urgent defense developments during absence, and on 5th starts investigators on the trail Senator MCCARTHY had suggested.

April 1: Chairman SALTONSTALL of Armed Services Committee releases letter from Defense Secretary Wilson which says, "My review of all the available facts of this case makes it appear that this (Army) judgment (on the Peress discharge) was faulty."

This may not create a justification for MCCARTHY'S remarks to General Zwicker, but it does suggest mitigation. At least, it seems poor precedent to predicate censure on the foundation that "a responsible staff board" turned down an urgent plea by the chairman of the Senate's investigation committee to file charges against a known Communist, to hold him, to probe his activities and affiliations, in favor of the request by the red himself to let him get out of their grasp.

Any chairman of a Senate committee is entitled to expect that if a request by him is presented in time that any "responsible" departmental staff board will give him the courtesy of deferring terminal action on any matter until the reasons for proceeding have been given to him.

If the chairman of a Senate committee is ignored to give an immediate and favorable response to the "hurry-up" request of a known Communist to let him get away—that chairman, any chairman might be forgiven if he loses his patience when later, the man who happens to have been in charge of carrying out the action covers for his superiors.

I repeat, this Zwicker-Peress affair is a poor foundation on which to predicate a precedent of censure. Good faith between the legislative and executive branches of Government is a two-way street.

Respectfully submitted to the Senate.

FRANCIS CASE,
South Dakota.

AWARD TO PROF. ENRICO FERMI

During Mr. WELKER'S speech.

Mr. HICKENLOOPER. Mr. President, without prejudicing the right of the Senator from Idaho to the floor, I ask unanimous consent that I may be permitted to speak for not to exceed 5 minutes, although I think I shall take only about 2 minutes, and that the Senator from Rhode Island [Mr. PASTORE], with whom I have discussed the matter, be permitted to speak for not to exceed 5 minutes, in connection with the announcement of an award granted to Professor Fermi, a scientist in the atomic field.

Mr. WELKER. Mr. President, I shall be very willing to yield to my distinguished friends, the Senator from Iowa and the Senator from Rhode Island, upon the condition that I do not lose the floor.

Mr. HICKENLOOPER. Mr. President, the Joint Committee on Atomic Energy has been informed that the first award for "especially meritorious contribution to the development, use, and control of atomic energy," authorized by the Atomic Energy Act of 1954, will be made to Nobel-laureate Prof. Enrico Fermi.

Authorization for such awards was placed in the Atomic Energy Act of 1954 by the Joint Committee on Atomic Energy as a token of our national indebtedness to the atomic scientists and engineers who have so mightily contributed to our national well-being. It is most gratifying to learn that the first such award, in keeping with our intent, will be made to one of such preeminence.

The award to Professor Fermi was recommended by the General Advisory Committee of the United States Atomic Energy Commission and approved by the President. Dr. Fermi will be presented with a scroll pointing out his outstanding contributions, and will receive a $25,000 award.

A quiet man, in the great tradition of scholars, Professor Fermi has in the past 20 years devoted his life to the tapping of this primordial source of energy. His contributions weighed heavily in our ability to develop the atomic bomb which did so much to end the war with Japan. Likewise, his contributions to the development of the use of the atom in peaceful pursuits have brought closer the day when mankind may enjoy the great blessings which atomic energy promises.

I know my colleagues on the Joint Committee on Atomic Energy join me in heartily endorsing this award to Prof. Enrico Fermi. On their behalf, I extend our gratitude for his great work and our heartfelt congratulations on this further recognition of his preeminent role as pioneer of the atomic age.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point in my remarks a release by the Atomic Energy Commission announcing the award.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

FERMI NAMED TO RECEIVE FIRST SPECIAL AEC AWARD

Lewis L. Strauss, Chairman of the Atomic Energy Commission, announced today that Enrico Fermi, professor of physics at the Institute for Nuclear Studies, University of Chicago, had been named as the recipient of the first special award by the United States Atomic Energy Commission.

The Atomic Energy Act of 1954 authorizes such awards for "especially meritorious contributions for the development, use, or control of atomic energy." The award to Dr. Fermi, which was recommended by the General advisory committee and approved by President Eisenhower, is $25,000. The award will be accompanied by a citation noting Dr. Fermi's contributions to basic neutron physics and the achievement of the controlled nuclear chain reaction.

Dr. Fermi's accomplishments in physics and in particular his contributions to the development of atomic energy have been of tremendous importance. The Fermi-Dirac particle statistics, the theory of beta-decay, the Fermi-Thomas model of the atom, neutron induced radioactivity, a theory of the origin of cosmic rays, are among his experimental and theoretical works. He has been awarded, among other honors, the Nobel prize, and has been president of the American Physical Society.

"In the earliest days of the atomic-energy project," said Mr. Strauss, "Dr. Fermi designed and directed the construction of the first nuclear reactor. He was in charge of the advanced physics division at Los Alamos. After the war he advised the Atomic Energy

Commission for several years as a member of its general advisory committee in addition to carrying on his own research into the theory of nuclear forces and the interpretation of meson experiments. As much as any individual, he is responsible for the achievement of the controlled release of nuclear energy."

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. I am glad to yield, but I am trespassing on the time of the Senator from Idaho. We are proceeding on limited time. I meant to say that the Senator from New Mexico also desired to say a few words.

Mr. WELKER. Mr. President, I yield on the condition that I do not lose my right to the floor, and that these remarks appear at the end of my remarks.

Mr. ANDERSON. Mr. President, I merely wished to add my word of commendation for the granting of the award to Professor Fermi. We cannot too frequently remind ourselves of the great contribution which has been made by him. I appreciate that the Senator from Iowa has called that fact to our attention, and has put it in the RECORD, because it is an indication that the Joint Committee on Atomic Energy is unanimous in trying to point out that proper attention should be paid to an award to this distinguished man.

Mr. PASTORE. Mr. President, I wish to join my colleague, the distinguished Senator from Iowa [Mr. HICKENLOOPER], in warmly endorsing the award for especially meritorious contribution to the development, use, and control of atomic energy which will be made to Prof. Enrico Fermi.

As a member of the Joint Committee on Atomic Energy, I have come to appreciate the great significance of Dr. Fermi's contribution to the development of atomic energy.

More than 20 years ago, at the University of Rome, Dr. Fermi began his investigations into the nuclei of atoms, which led to world recognition in 1938, and to a Nobel prize in physics that year.

After going to Stockholm, Sweden, to receive the prize, Dr. Fermi chose not to return to his native Italy, because of his dislikes for the Facist government then in power, and instead, with his family, came to our shores. To me it is most significant, to me it is an indication of the greatness of our country, that this refugee scientist now receives the first President-approved award for work in atomic energy.

After coming to our land, Dr. Fermi immediately took up his work at Columbia University, beginning there the scientific investigations that were later to lead to the world's first atomic reactor, to the atomic bomb, and to the great benefits which atomic power will bring.

Dr. Fermi arrived in the United States on January 2, 1939. Interestingly, only 7 months later, on August 2, 1939, Professor Einstein began his famous letter to President Roosevelt with these words:

SIR: Some recent work by E. Fermi and L. Szilard, which has been communicated to me in manuscript, leads me to expect that the element uranium may be turned into a new and important source of energy in the immediate future.

From this letter sprang the wartime Manhattan District, the first atomic reactor, and the first atom bomb.

Dr. Fermi continued his persevering work on uranium fission, and in Chicago, on December 2, 1942, under his leadership, man's first successful release and control of atomic energy was accomplished.

Dr. Fermi, under the code name of Henry Farmer, continued his work on atomic energy throughout the war years, first at Oak Ridge, then at Hanford, and then at Los Alamos, where he assisted in the design of the first atomic bomb.

After the war he returned to the University of Chicago, where, in addition to his independent and searching studies into the secrets of atomic nuclei, he chose to teach physics to freshmen. He also served until last year as a member of the General Advisory Committee of the Atomic Energy Commission, the highest scientific policy body in our national atomic program.

Throughout his career, Dr. Fermi has been admired by his colleagues, not only for the understanding of nuclear forces, but for his characteristic humility. I am certain that throughout the scientific world this award to Dr. Fermi will be unanimously acclaimed.

Mr. President, as a member of the Senate, as a member of the Joint Committee on Atomic Energy, and as one of Italian ancestry, I am proud of this recognition of Professor Fermi and his work.

Mr. President, I now ask unanimous consent to have incorporated in the body of the RECORD at this point a narrative of the events leading to the first successful release and control of nuclear chain reaction achieved by Professor Fermi on December 2, 1942.

There being no objection, the narrative was ordered to be printed in the RECORD, as follows:

THE FIRST PILE

(By Corbin Allardice, executive director, Joint Committee on Atomic Energy, and Edward R. Trapnell, special assistant to the General Manager, United States Atomic Energy Commission)

On December 2, 1942, man first initiated a self-sustaining nuclear chain reaction, and controlled it.

Beneath the west stands of Stagg Field, Chicago, late in the afternoon of that day, a small group of scientists witnessed the advent of a new era in science. History was made in what had been a squash-rackets court.

Precisely at 3:25 p. m., Chicago time, Scientist George Weil withdrew the cadmium-plated control rod and by his action man unleashed and controlled the energy of the atom.

As those who witnessed the experiment became aware of what had happened, smiles spread over their faces and a quiet ripple of applause could be heard. It was a tribute to Enrico Fermi, Nobel prize winner, to whom, more than to any other person, the success of the experiment was due.

Fermi, born in Rome, Italy, on September 29, 1901, had been working with uranium for many years. In 1934 he bombarded uranium with neutrons and produced what appeared to be element 93 (uranium is element 92) and element 94. However, after closer examination it seemed as if nature had gone wild; several other elements were present, but none could be fitted into the periodic table near uranium—where Fermi knew they should have fitted if they had been the transuranic elements 93 and 94. It was not until 5 years later that anyone, Fermi included, realized he had actually caused fission of the uranium and that these unexplained elements belonged back in the middle part of the periodic table.

Fermi was awarded the Nobel prize in 1938 for his work on transuranic elements. He and his family went to Sweden to receive the prize. The Italian Fascist press severely criticized him for not wearing a Fascist uniform and failing to give the Fascist salute when he received the award. The Fermis never returned to Italy.

From Sweden, having taken most of his personal possessions with him, Fermi proceeded to London and thence to America where he has remained ever since.

The modern Italian explorer of the unknown was in Chicago that cold December day in 1942. An outsider, looking into the squash court where Fermi was working would have been greeted by a strange sight. In the center of the 30- by 60-foot room, shrouded on all but one side by a gray balloon cloth envelope, was a pile of black bricks and wooden timbers, square at the bottom and a flattened sphere on top. Up to half of its height, its sides were straight. The top half was domed, like a beehive. During the construction of this crude-appearing but complex pile (the name which has since been applied to all such devices) the standing joke among the scientists working on it was: "If people could see what we're doing with a million and a half of their dollars, they'd think we are crazy. If they knew why we are doing it, they'd be sure we are."

In relation to the fabulous atomic-bomb program, of which the Chicago pile experiment was a key part, the successful result reported on December 2 formed one more piece for the jigsaw puzzle which was atomic energy. Confirmation of the chain-reactor studies was an inspiration to the leaders of the bomb project, and reassuring at the same time, because the Army's Manhattan Engineer District had moved ahead on many fronts. Contract negotiations were under way to build production-scale nuclear chain reactors, land had been acquired at Oak Ridge, Tenn., and millions of dollars had been obligated.

Three years before the December 2 experiment, it had been discovered that when an atom of uranium was bombarded by neutrons, the uranium atom sometimes split, or fissioned. Later, it had been found that when an atom of uranium fissioned, additional neutrons were emitted and became available for further reaction with other uranium atoms. These facts implied the possibility of a chain reaction, similar in certain respects to the reaction which is the source of the sun's energy. The facts further indicated that if a sufficient quantity of uranium could be brought together under the proper conditions, a self-sustaining chain reaction would result. This quantity of uranium necessary for a chain reaction under given conditions is known as the critical mass, or more commonly, the "critical size" of the particular pile.

For 3 years the problem of a self-sustaining chain reaction had been assiduously studied. Nearly a year after Pearl Harbor, a pile of critical size was finally constructed. It worked. A self-sustaining nuclear chain reaction was a reality.

Years of scientific effort and study lay behind this demonstration of the first self-sustaining nuclear chain reaction. The story goes back at least to the fall of 1938, when two German scientists, Otto Hahn and Fritz Strassman, working at the Kaiser Wilhelm Institute in Berlin, found barium in the residue material from an experiment in which they had bombarded uranium with neutrons from a radium-beryllium source.

This discovery caused tremendous excitement in the laboratory because of the difference in atomic mass between the barium and the uranium. Previously, in residue material from similar experiments, elements other than uranium had been found, but they differed from the uranium by only 1 or 2 units of mass. The barium differed by approximately 98 units of mass. The question was, Where did this element come from? It appeared that the uranium atom when bombarded by a neutron had split into two different elements each of approximately half the mass of the uranium.

Before publishing their work in the German scientific journal Die Naturwissenschaften, Hahn and Strassman communicated with Lise Meitner, who, having fled the Nazi-controlled Reich, was working with Neils Bohr in Copenhagen, Denmark.

Meitner was very much interested in this phenomenon and immediately attempted to analyze mathematically the results of the experiment. She reasoned that the barium and the other residual elements were the result of a fission, or breaking, of the uranium atom. But when she added the atomic masses of the residual elements she found this total was less than the atomic mass of uranium.

There was but one explanation: The uranium fissioned or split, forming two elements each of approximately half of its original mass, but not exactly half. Some of the mass of the uranium had disappeared. Meitner and her nephew, O. R. Frisch, suggested that the mass which disappeared was converted into energy. According to the theories advanced in 1905 by Albert Einstein in which the relationship of mass to energy was stated by the equation $E=mc^2$ (energy is equal to mass times the square of the speed of light), this energy release would be of the order of 200 million electron volts for each atom fissioned.

Einstein, himself, nearly 35 years before, had said this theory might be proved by further study of radioactive elements. Bohr was planning a trip to America to discuss other problems with Einstein, who had found a haven at Princeton's Institute for Advanced Studies. Bohr came to America, but the principal item he discussed with Einstein was the report of Meitner and Frisch. Bohr arrived at Princeton on January 16, 1939. He talked to Einstein and J. A. Wheeler, who had once been his student. From Princeton the news spread by word of mouth to neighboring physicists, including Enrico Fermi at Columbia. Fermi and his associates immediately began work to find the heavy pulse of ionization which could be expected from the fission and consequent release of energy.

Before the experiments could be completed, however, Fermi left Columbia to attend a conference on theoretical physics at George Washington University in Washington, D. C. Here Fermi and Bohr exchanged information and discussed the problem of fission. Fermi mentioned the possibility that neutrons might be emitted in the process. In this conversation their ideas of the possibility of a chain reaction began to crystallize.

Before the meeting was over, experimental confirmation of Meitner and Frisch's deduction was obtained from four laboratories in the United States (Carnegie Institution of Washington, Columbia, Johns Hopkins, and the University of California). Later it was learned that similar confirmatory experiments had been made by Frisch and Meitner on January 15. Frederic Joliot-Curie in France, too, confirmed the results and published them in the January 30 issue of the French scientific journal, Comptes rendus.

On February 27, 1939, the Canadian born Walter H. Zinn and Leo Szilard, a Hungarian, both working at Columbia University, began their experiments to find the number of neutrons emitted by the fissioning uranium. At the same time, Fermi and his associates, Herbert L. Anderson and H. B. Hanstein, commenced their investigation of the same problem. The results of these experiments were published side by side in the April edition of the Physical Review and showed that a chain reaction might be possible since the uranium emitted additional neutrons when it fissioned.

These measurements of neutron emission by Fermi, Zinn, Szilard, Anderson, and Hanstein were highly significant steps toward a chain reaction.

Further impetus to the work on a uranium reactor was given by the discovery of plutonium at the Radiation Laboratory, Berkeley, Calif., in March 1940. This element, unknown in nature, was formed by uranium 238 capturing a neutron, and thence undergoing two successive changes in atomic structure with the emission of beta particles. Plutonium, it was believed, would undergo fission as did the rare isotope of uranium, U–235.

Meanwhile, at Columbia, Fermi and Zinn and their associates were working to determine operationally possible designs of a uranium chain reactor. Among other things, they had to find a suitable moderating material to slow down the neutrons traveling at relatively fast velocities. In July 1941, experiments with uranium were started to obtain measurements of the reproduction factor (called k), which was the key to the problem of a chain reaction. If this factor could be made sufficiently greater than 1, a chain reaction could be made to take place in a mass of material of practical dimensions. If it were less than 1, no chain reaction could occur.

Since impurities in the uranium and in the moderator would capture neutrons and make them unavailable for further reactions, and since neutrons would escape from the pile without encountering uranium 235 atoms, it was not known whether a value for k greater than unity could ever be obtained.

Fortunate it was, that the obtaining of a reproduction factor greater than 1 was a complex and difficult problem. If Hitler's scientists had discovered the secret of controlling the neutrons and had obtained a working value of k, they would have been well on the way toward producing an atomic bomb for the Nazis.

One of the first things that had to be determined was how best to place the uranium in the reactor. Fermi and Szilard suggested placing the uranium in a matrix of the moderating material, thus forming a cubical lattice of uranium. This placement appeared to offer the best opportunity for a neutron to encounter a uranium atom. Of all the materials which possessed the proper moderating qualities, graphite was the only one which could be obtained in sufficient quantity of the desired degree of purity.

The study of graphite-uranium lattice reactors was started at Columbia in July 1941, but after reorganization of the uranium project in December 1941, Arthur H. Compton was placed in charge of this phase of the work, under the Office of Scientific Research and Development, and it was decided that the chain-reactor program should be concentrated at the University of Chicago. Consequently, early in 1942 the Columbia and Princeton groups were transferred to Chicago where the Metallurgical Laboratory was established.

In a general way, the experimental nuclear physics group under Fermi was primarily concerned with getting a chain reaction going; the chemistry division organized by F. H. Spedding (later in turn under S. K. Allison, J. Franck, W. C. Johnson, and T. Hogness) with the chemistry of plutonium and with separation methods, and the theoretical group under E. P. Wigner with designing production piles. However, the problems were intertwined and the various scientific and technical aspects of the fission process were studied in whatever group seemed best equipped for the particular task.

At Chicago, the work on subcritical size piles was continued. By July 1942, the measurements obtained from these experimental piles had gone far enough to permit a choice of design for a test pile of critical size. At that time, the dies for the pressing of the uranium oxides were designed by Zinn and ordered made. It was a fateful step, since the entire construction of the pile depended upon the shape and size of the uranium pieces.

It was necessary to use uranium oxides because metallic uranium of the desired degree of purity did not exist. Although several manufacturers were attempting to produce the uranium metal, it was not until November that any appreciable amount was available. By mid-November, Westinghouse Electric & Manufacturing Co., Metal Hydrides Co., and F. H. Spedding, who was working at Iowa State College at Ames, Iowa, had delivered several tons of the highly purified metal which was placed in the pile, as close to the center as possible. The procurement program for moderating material and uranium oxides had been handled by Norman Hilberry. R. L. Doan headed the procurement program for pure uranium metal.

Although the dies for the pressing of the uranium oxides were designed in July, additional measurements were necessary to obtain information about controlling the reaction, to revise estimates as to the final critical size of the pile, and to develop other data. Thirty experimental subcritical piles were constructed before the final pile was completed.

Meantime, in Washington, Vannevar Bush, Director of the Office of Scientific Research and Development, had recommended to President Roosevelt that a special Army engineer organization be established to take full responsibility for the development of the atomic bomb. During the summer, the Manhattan Engineer District was created, and in September 1942, Maj. Gen. L. R. Groves assumed command.

Construction of the main pile at Chicago started in November. The project gained momentum, with machining of the graphite blocks, pressing of the uranium-oxide pellets, and the design of instruments. Fermi's 2 construction crews, 1 under Zinn and the other under Anderson, worked almost around the clock. V. C. Wilson headed up the instrument work.

Original estimates as to the critical size of the pile were pessimistic. As a further precaution, it was decided to enclose the pile in a balloon-cloth bag which could be evacuated to remove the neutron-capturing air.

This balloon cloth bag was constructed by Goodyear Tire & Rubber Co. Specialists in designing gas bags for lighter-than-air craft, the company's engineers were a bit puzzled about the aerodynamics of a square balloon. Security regulations forbade informing Goodyear of the purpose of the envelope and so the Army's new square balloon was the butt of much joking.

The bag was hung with one side left open; in the center of the floor a circular layer of graphite bricks was placed. This and each succeeding layer of the pile was braced by a wooden frame. Alternate layers contained the uranium. By this layer-on-layer construction a roughly spherical pile of uranium and graphite was formed.

Facilities for the machining of graphite bricks were installed in the west stands. Week after week this shop turned out graphite bricks. This work was done under the direction of Zinn's group, by skilled mechanics led by millwright August Knuth. In October, Anderson and his associates joined Zinn's men.

Describing this phase of the work, Albert Wattenberg, one of Zinn's group, said: "We found out how coal miners feel. After 8

hours of machining graphite, we looked as if we were made up for a minstrel. One shower would remove only the surface graphite dust. About a half hour after the first shower the dust in the pores of your skin would start oozing. Walking around the room where we cut the graphite was like walking on a dance floor. Graphite is a dry lubricant, you know, and the cement floor covered with graphite dust was slippery."

Before the structure was half complete measurements indicated that the critical size at which the pile would become self-sustaining was somewhat less than had been anticipated in the design.

Day after day the pile grew toward its final shape. And as the size of the pile increased, so did the nervous tension of the men working on it. Logically and scientifically they knew this pile would become self-sustaining. It had to. All the measurements indicated that it would. But still, the demonstration had to be made. As the eagerly awaited moment drew nearer, the scientists gave greater and greater attention to details, the accuracy of measurements, and exactness of their construction work.

Guiding the entire pile construction and design was the nimble-brained Fermi, whose associates described him as completely self-confident but wholly without conceit.

So exact were Fermi's calculations, based on the measurements taken from the partially finished pile, that days before its completion and demonstration on December 2, he was able to predict almost to the exact brick the point at which the reactor would become self-sustaining.

But with all their care and confidence, few in the group knew the extent of the heavy bets being placed on their success. In Washington, the Manhattan district had proceeded with negotiations with E. I. du Pont de Nemours & Co., to design, build, and operate a plant based on the principles of the then unproved Chicago pile. The $350 million Hanford Engineer Works at Pasco, Wash., was to be the result.

At Chicago during the early afternoon of December 1, tests indicated that critical size was rapidly being approached. At 4 p. m. Zinn's group was relieved by the men working under Anderson. Shortly afterward, the last layer of graphite and uranium bricks was placed on the pile. Zinn, who remained, and Anderson made several measurements of the activity within the pile. They were certain that when the control rods were withdrawn, the pile would become self-sustaining. Both had agreed, however, that should the measurements indicate the reaction would become self-sustaining when the rods were withdrawn, they would not start the pile operating until Fermi and the rest of the group could be present. Consequently, the control rods were locked and further work was postponed until the following day.

That night the word was passed to the men who had worked on the pile that the trial run was due the next morning.

About 8:30 on the morning of Wednesday, December 2, the group began to assemble in the squash court.

At the north end of the squash court was a balcony about 10 feet above the floor of the court. Fermi, Zinn, Anderson, and Compton were grouped around instruments at the east end of the balcony. The remainder of the observers crowded the little balcony. R. G. Nobles, one of the young scientists who worked on the pile put it this way: "The control cabinet was surrounded by the 'big wheels'; the 'little wheels' had to stand back."

On the floor of the squash court, just beneath the balcony, stood George Weil, whose duty it was to handle the final control rod. In the pile were three sets of control rods. One set was automatic and could be controlled from the balcony. Another was an emergency safety rod. Attached to one end of this rod was a rope running through the pile and weighted heavily on the opposite end. The rod was withdrawn from the pile and tied by another rope to the balcony. Hilberry was ready to cut this rope with an ax, should something unexpected happen, or in case the automatic safety rods failed. The third rod, operated by Weil, was the one which actually held the reaction in check until withdrawn the proper distance.

Since the demonstration was new and different from anything ever done before, complete reliance was not placed on mechanically operated control rods. Therefore, a liquid-control squad, composed of Harold Lichtenberger, W. Nyer, and A. C. Graves, stood on a platform above the pile. They were prepared to flood the pile with cadmium-salt solution in case the mechanical failure of the control rods.

Each group rehearsed its part of the experiment.

At 9:45 Fermi ordered the electrically operated control rods withdrawn. The man at the controls threw the switch to withdraw them. A small motor whined. All eyes watched the lights which indicated the rod's position.

But quickly the balcony group turned to watch the counters, whose clicking stepped up after the rods were out. The indicators of these counters resembled the face of a clock, with hands to indicate neutron count. Nearby was a recorder, whose quivering pen traced the neutron activity within the pile.

Shortly after 10 o'clock, Fermi ordered the emergency rod, called Zip, pulled out and tied.

"Zip out," said Fermi. Zinn withdrew Zip by hand and tied it to the balcony rail. Weil stood ready by the vernier control rod which was marked to show the number of feet and inches which remained within the pile.

At 10:37 Fermi, without taking his eyes off the instruments, said quietly:

"Pull it to 13 feet, George." The counters clicked faster. The graph pen moved up. All the instruments were studied, and computations were made.

"This is not it," said Fermi. "The trace will go to this point and level off." He indicated a spot on the graph. In a few minutes the pen came to the indicated point and did not go above that point. Seven minutes later Fermi ordered the rod out another foot.

Again the counters stepped up their clicking, the graph pen edged upward. But the clicking was irregular. Soon it leveled off, as did the thin line of the pen. The pile was not self-sustaining—yet.

At 11 o'clock, the rod came out another 6 inches; the result was the same: an increase in rate, followed by the leveling off.

Fifteen minutes later, the rod was further withdrawn and at 11:25 was moved again. Each time the counters speeded up, the pen climbed a few points. Fermi predicted correctly every movement of the indicators. He knew the time was near. He wanted to check everything again. The automatic control rod was reinserted without waiting for its automatic feature to operate. The graph line took a drop, the counters slowed abruptly.

At 11:35, the automatic safety rod was withdrawn and set. The control rod was adjusted and Zip was withdrawn. Up went the counters, clicking, clicking, faster and faster. It was the clickety-click of a fast train over the rails. The graph pen started to climb. Tensely, the little group watched, and waited, entranced by the climbing needle.

Whrrrump! As if by a thunderclap, the spell was broken. Every man froze—then breathed a sigh of relief when he realized the automatic rod had slammed home. The safety point at which the rod operated automatically had been set too low.

"I'm hungry," said Fermi. "Let's go to lunch."

Perhaps, like a great coach, Fermi knew when his men needed a break.

It was a strange "between halves" respite They got no pep talk. They talked about everything else but the "game." The redoubtable Fermi, who never says much, had even less to say. But he appeared supremely confident. His "team" was back on the squash court at 2 p. m. Twenty minutes later, the automatic rod was reset and Weil stood ready at the control rod.

"All right, George," called Fermi, and Weil moved the rod to a predetermined point. The spectators resumed their watching and waiting, watching the counters spin, watching the graph, waiting for the settling down and computing the rate of rise of reaction from the indicators.

At 2:50 the control rod came out another foot. The counters nearly jammed, the pen headed off the graph paper. But this was not it. Counting ratios and the graph scale had to be changed.

"Move it 6 inches," said Fermi at 3:20. Again the change—but again the leveling off. Five minutes later, Fermi called: "Pull it out another foot."

Weil withdrew the rod.

"This is going to do it," Fermi said to Compton, standing at his side. "Now it will become self-sustaining. The trace will climb and continue to climb. It will not level off."

Fermi computed the rate of rise of the neutron counts over a minute period. He silently, grim faced, ran through some calculations on his slide rule.

In about a minute he again computed the rate of rise. If the rate was constant and remained so, he would know the reaction was self-sustaining. His fingers operated the slide rule with lightning speed. Characteristically, he turned the rule over and jotted down some figures on its ivory back.

Three minutes later he again computed the rate of rise in neutron count. The group on the balcony had by now crowded in to get an eye on the instruments, those behind craning their necks to be sure they would know the very instant history was made. In the background could be heard William Overbeck calling out the neutron count over an annunciator system. Leona Marshall (the only girl present), Anderson, and William Strum were recording the readings from the instruments. By this time the click of the counters was too fast for the human ear. The clickety-click was now a steady brrrr. Fermi, unmoved, unruffled, continued his computations.

"I couldn't see the instruments," said Weil. "I had to watch Fermi every second, waiting for orders. His face was motionless. His eyes darted from one dial to another. His expression was so calm it was hard. But suddenly, his whole face broke into a broad smile."

Fermi closed his slide rule—

"The reaction is self-sustaining," he announced quietly, happily. "The curve is exponential."

The group tensely watched for 28 minutes while the world's first nuclear chain reactor operated.

The upward movement of the pen was leaving a straight line. There was no change to indicate a leveling off. This was it.

"O. K., 'Zip' in," called Fermi to Zinn, who controlled that rod. The time was 3:53 p. m. Abruptly, the counters slowed down, the pen slid down across the paper. It was all over.

Man had initiated a self-sustaining nuclear reaction—and then stopped it. He had released the energy of the atom's nucleus and controlled that energy.

Right after Fermi ordered the reaction stopped, the Hungarian-born theoretical physicist, Eugene Wigner, presented him with a bottle of Chianti wine. All through the experiment Wigner had kept this wine hidden behind his back.

Fermi uncorked the wine bottle and sent out for paper cups so all could drink. He poured a little wine in all the cups, and silently, solemnly, without toasts, the scientists raised the cups to their lips—the Canadian Zinn, the Hungarians Szilard and Wigner, the Italian Fermi, the Americans Compton, Anderson, Hilberry, and a score of others. They drank to success—and to the hope they were the first to succeed.

A small crew was left to straighten up, lock controls, and check all apparatus. As the group filed from the west stands, one of the guards asked Zinn:

"What's going on, Doctor, something happen in there?"

The guard did not hear the message which Arthur Compton was giving James B. Conant at Harvard, by long-distance telephone. Their code was not prearranged.

"The Italian navigator has landed in the New World," said Compton.

"How were the natives?" asked Conant.

"Very friendly."

RESOLUTION OF CENSURE

The Senate resumed the consideration of the resolution (S. Res. 301) to censure the junior Senator from Wisconsin.

Mr. KNOWLAND. Mr. President, I understand that the senior Senator from Nevada wishes to make a few brief remarks this afternoon. I explained to the Senator from Nevada that the Senator from Idaho had not completed his remarks, and would resume the floor tomorrow following the morning hour if a unanimous-consent agreement to that effect is entered into.

I ask unanimous consent that the Senator from Idaho [Mr. WELKER] may have the floor tomorrow morning after the usual morning hour for the transaction of routine business.

The PRESIDING OFFICER (Mr. COOPER in the chair). Is there objection? The Chair hears none, and the unanimous-consent agreement is entered.

Mr. MALONE. Mr. President, I have in my hand a copy of Senate Resolution 301, which reads as follows:

Resolved, That the Senator from Wisconsin [Mr. MCCARTHY] failed to cooperate with the Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration in clearing up matters referred to that subcommitteee which concerned his conduct as a Senator and affected the honor of the Senate and, instead, repeatedly abused the subcommittee and its members who were trying to carry out assigned duties, thereby obstructing the constitutional processes of the Senate, and that this conduct of the Senator from Wisconsin [Mr. MCCARTHY] in failing to cooperate with a Senate committee in clearing up matters affecting the honor of the Senate is contrary to senatorial traditions and is hereby condemned.

SEC. 2. The Senator from Wisconsin [Mr. MCCARTHY] in conducting a senatorial inquiry intemperately abused, and released executive hearings in which he denounced, a witness representing the executive branch of the Government, Gen. Ralph W. Zwicker, an officer of the United States Army, for refusing to criticize his superior officers and for respecting official orders and executive directives, thereby tending to destroy the good faith which must be maintained between the executive and legislative branches in our system of government; and the Senate disavows the denunciation of General Zwicker by Senator MCCARTHY as chairman of a Senate subcommittee and censures him for that action.

LETTER TO THE CHAIRMAN

Mr. President, on November 15, 1954, a member of the select committee to study censure charges against the junior Senator from Wisconsin addressed a letter to the chairman of the select committee, in which he said:

UNITED STATES SENATE,
SELECT COMMITTEE TO STUDY CENSURE CHARGES PURSUANT TO SENATE ORDER ON SENATE RESOLUTION 301,
November 15, 1954.

The Honorable ARTHUR V. WATKINS,
Chairman, Select Committee To Study Censure Charges, United States Senate.

MY DEAR MR. CHAIRMAN: The letter which Secretary Stevens wrote late Saturday, and which you delivered to me yesterday (Sunday) afternoon responding to the questions which I asked him at the conference in your office earlier Saturday afternoon, considered with the material in the two letters which he brought to your office, together with the prior evidence in the matter, convinces me that it would be wrong to censure Senator MCCARTHY on the second count—the Zwicker affair.

Therefore, I shall not vote for it.

Mr. President, I ask unanimous consent that the part of the letter to the chairman from the distinguished Senator from South Dakota which I have marked in the margin be printed in the RECORD at this point.

There being no objection, the portion of the letter was ordered to be printed in the RECORD, as follows:

You recall that after reading the McCarthy letter which Secretary Stevens brought in Saturday, I asked: "When was the letter actually received?" and "What consideration was given to it?"

After the conference, I reread not only the testimony before our committee on the Zwicker matter but also the original Peress testimony before Senator MCCARTHY in New York City. That hearing ended in New York City at noon on Saturday, January 30, on a quiet and sort of incidental question by Senator MCCARTHY, "You haven't been asked to resign, have you?"

A short exchange apparently alerted both parties and then a foot race began—by Peress on Monday, February 1, to get immediate action on his discharge, by MCCARTHY to get a court-martial instituted before Peress got out of the jurisdiction of the Army.

Secretary Stevens gives the first positive evidence as far as I know that Senator MCCARTHY's letter of February 1, was delivered to his office by messenger that same Monday, and made known "to the responsible Army staff."

Further, that it was reviewed—presumably against the information which General Zwicker relayed through his immediate superior, Chief of Staff, First Army, New York, the same Monday that Peress had asked for immediate discharge instead of the previously agreed upon date.

Mr. Stevens' reply to my second question is that the McCarthy letter was then reviewed and that "it was concluded that there was no additional evidence to require modification of the prior determination of the Peress case * * * and that the best interests of the United States would be served by his prompt separation."

So, the discharge was executed and Peress was released Tuesday afternoon, February 2. Mr. Stevens arrived in Washington on his trip back from Japan late on the afternoon of February 3.

This proof that an Army staff at the Pentagon did decide to let Peress slip out of their grasp after the issue was directly and timely raised throws into new focus a whole set of dates and events prior to the Zwicker hearing. It goes far toward explaining Senator MCCARTHY'S conduct on February 18 when Brigadier General Zwicker, the representative supplied by the Army under wraps was unable to pinpoint the persons responsible for giving more consideration to a request from a false-swearing Communist seeking to flee from the Army's jurisdiction than to a suggestion from the chairman of a Senate investigating committee that court-martial proceedings be immediately instituted.

PROVISION FOR CENSURE OR EXPULSION

Mr. MALONE. Mr. President, the Constitution of the United States, in article I, section 5, provides that:

Each House may determine the rules of its procedure, punish its Members for disorderly behavior, and with the concurrence of two thirds, expel a Member.

Mr. President, that is the only reference the Senator from Nevada is able to find in the Constitution of the United States relative to the censure or expulsion of a Member.

Mr. President, other than the charge relating to the "Zwicker affair" designated by the distinguished Senator from South Dakota [Mr. CASE], there is left only the charge of abusing the subcommittee "and its members who were trying to carry out assigned duties, thereby obstructing the constitutional processes of the Senate, and that this conduct of the Senator from Wisconsin in failing to cooperate with a Senate committee in clearing up matters affecting the honor of the Senate, is contrary to senatorial traditions and is hereby condemned."

Mr. President, I find no provision in the Constitution of the United States or in the rules of the Senate for any such procedure, granting, however, that the Senate, no doubt, by the required number of votes, can do anything it decides to do to a Member.

On November 8, 1954, at the beginning of this debate, the Senator from Nevada said on page 15849 of the CONGRESSIONAL RECORD, in a debate with the majority leader of the Senate:

The Senator to whom the censure is directed is only a whipping boy. The objective is and has been to destroy the investigative power of the Senate.

A WHIPPING BOY

Mr. President, on November 12 the Senator from Nevada further stated in a debate with the distinguished majority leader, at page 15983 of the CONGRESSIONAL RECORD:

The senior Senator from Nevada feels that the junior Senator from Wisconsin is merely the whipping boy in this procedure. He feels that the real objective from the very beginning has been to destroy the investigative power of this body.

ESTABLISH THE PRINCIPLE—WHO IS NEXT

By pinning the spotlight on a personality the public can be divided. You could not so easily divide public opinion on the principle involved.

The present procedure or the next accusation, once the principle is established, could be the chairman of the Appropriations Committee (Mr. BRIDGES) or the chairman of

the Committee on Rules and Administration (Mr. JENNER) or the distinguished majority leader.

Mr. President, if we are stepping out and beyond the Constitution of the United States and the rules of the Senate to censure conduct that does not seem proper to some Member of the Senate, it will be a very wide field, I promise the President of the Senate.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD portions of the debate between the distinguished majority leader and the senior Senator from Nevada.

There being no objection, the portions of the debate were ordered to be printed in the RECORD, as follows:

Mr. KNOWLAND. I yield.

Mr. MALONE. I would state at this point that we are following the procedure of legislative bodies wherever dictatorships have been established.

We are nibbling at the investigative power of the Senate by censuring any Senator who seeks to investigate any procedure or act, asking questions distasteful to a witness.

NO ALLEGATION OF VIOLATION OF A SENATE RULE

If the distinguished Senator from California will further yield, I will say that I have heard no accusation made on the floor of the Senate, or at the hearings, or at the time the allegations were filed, that the Senator on trial ever violated a rule of the Senate.

I understand that the Senate is the judge of its own Members, and can decide whom it will seat in the Senate. The Senate could expel the senior Senator from California or the senior Senator from Nevada, if it so desired, if it had the votes with which to do it, regardless of the nature of the charges.

NO CENSURE UNLESS A SENATE RULE VIOLATED

However, the Senate has yet—over a period of 175 years—to set a precedent of censuring a Senator unless he has violated a rule of the Senate.

Senators have been tried and censured—and they have faced expulsion, but no Senator has ever been censured except on an allegation and conviction that he violated an established rule of the Senate.

Therefore, if we proceed in the matter before the Senate on the theory that we will later adopt a rule which the Senator in question would have violated if it had been a rule of the Senate at the time of the commission of the alleged act, that is quite another matter.

There will be, I may say to the distinguished majority leader, some serious debate before any such proposed rule will be adopted in any case.

OUTSIDE CONSTITUTIONAL JURISDICTION OF THE SENATE

Mr. MALONE. Mr. President, the select committee has recommended action by the Senate which, in the opinion of the senior Senator from Nevada, is clearly outside the constitutional jurisdiction of this body.

NO PUBLIC SENTIMENT IN WASHINGTON

Understand, Mr. President, that I have no feeling for or against the select committee. I believe it made a mistake, and I believe the Senate made a mistake in directing the committee by not specifying that the members of the committee should go home for a few weeks before holding hearings in Washington, because I believe, and have so stated on the Senate floor and elsewhere, that this is the most dangerous town in the United States of America to the United States of America, because there is no public opinion in Washington—there is no one here except the people who work for the Government or work for someone who works for the Government or the folks who sell something to someone who works for the Government.

So that if we are here more than three consecutive months without going home or associating with the producers of the Nation we think that what we are hearing is public sentiment.

There is no public sentiment in Washington. So that if the committee is to be censured for its action, the Senate must shoulder some of the blame for not specifying that they must go home for a few weeks and get their feet on the ground, thereby regaining their balance by association with the people who still revere and depend upon the Constitution of the United States and the Bill of Rights, and who still believe in the dignity and the integrity of the United States Senate.

Typical of the wires and mail that I am receiving from my constituents in my State of Nevada is the wire received today from Avery Stitser, publisher of the daily Humboldt Star at Winnemucca, Nev.:

Re your letter November 13. Continue your fight for the enforcement of the cloture rule of the United States Senate. In this present debate, in my opinion, the Senate is working toward its own destruction. Am behind you in your endeavors to halt such destruction.

Mrs. Avery D. Stitser is a typical independent American editor of a newspaper in a farming, livestock, and mining area—her job is to inform the residents of Humboldt County, Nev., on local, national, and international affairs, and that she does in a very independent and thorough manner.

Avery Stitser is a typical editor of my State—she prints the news of the day, taking orders from no one.

CENSURE REPREHENSIBLE CONDUCT

The committee's conclusion in its consideration of category V, the Zwicker allegation, is that "the conduct of Senator MCCARTHY toward General Zwicker was reprehensible."

It adds that "for this conduct he should be censured by the Senate."

What kind of conduct? Why, "reprehensible conduct," and reprehensible only.

Dictatorship may punish legislators for conduct which dictators consider reprehensible, but there is no provision in the Constitution of the United States that grants anyone that power.

The Constitution of the United States is specific on what ground either House may punish a Member. Article I, section 5, states that each House may punish its Members for disorderly behavior, and that is the only constitutional ground on which they can be punished by their colleagues.

NO FINDING OF DISORDERLY BEHAVIOR

The select committee made no allegation of disorderly behavior against Senator MCCARTHY. It made no finding of disorderly behavior. It said, on the other hand, that in its opinion, the conduct of the junior Senator from Wisconsin in the Zwicker affair was "reprehensible" and that it was "not proper."

That is the allegation from which the distinguished Senator from South Dakota has now withdrawn his support; and I would not be surprised, if he went home for a little while, with the good people of South Dakota that he might take a different view of stifling the investigative power of the United States Senate.

I said a few days ago on this floor that even if some of us fail to express ourselves properly sometimes or fail to arrive at a proper conclusion on a national or international basis, or if we do not care to exercise our power on a particular subject, we ought to preserve that power for our successors, just as it has been handed down to us over a period of 175 years. It has never been impaired. Let us not be the first to destroy it.

Mr. President, nowhere is there any charge that the junior Senator from Wisconsin was guilty of "disorderly behavior," the only constitutional ground on which this body can punish a fellow Member.

I think I should amend that statement by saying that if we have the necessary votes we can expel any Member of the Senate, even the distinguished majority leader or the distinguished minority leader.

CANNOT BE RETROACTIVE

Conceivably, if the precedent is once set, that might even be done, because I understand there is a committee working on the rules of the Senate that would make practically every Senator the judge of a breach of a personal-conduct rule by any other Senator. If we pass such a rule, and I greatly doubt we shall, because nearly everyone will go home before we come back in January and possibly rearrange his perspective—and even if we should use the poor judgment to pass such a rule, thus further destroying the investigative power of the Senate, there is nothing in the law or in the Constitution or in the rules of the Senate that would allow any such rule to be retroactive.

Mr. President, if we should set such a precedent, we shall have gone a long way toward a new concept, a Prussian concept, a Praetorian Guard concept, a totalitarian concept, in which Senators must speak softly, obsequiously, and servilely, must bootlick, if you please, any officer of high rank from whom information is sought in performance of our legislative functions.

We shall have abdicated our legislative independence to the military. I do not believe that even the great bulk of our fine military officers want that. They do not want to be coddled, either, unless the officers in the military have changed a great deal since World War I, when the senior Senator from Nevada enlisted as a private and finally was

made an officer and was given men to command. We did not ask for quarter, nor did we give much. At that time, if we violated a rule, if we violated a military concept, there was prompt retribution. There was no time to do anything about it. Those were the days when a sergeant came up from the ranks because he ought to be a sergeant, because men respected him for his power or understanding of personality, not because he had passed an examination somewhere.

The report of the select committee cites testimony that General Zwicker used the expression "You s. o. b." with reference to Senator McCARTHY—and I do not think, Mr. President, from the context, that he meant Senate Office Building.

There is other evidence in the report that General Zwicker was "antagonistic" to the junior Senator from Wisconsin long in advance of the hearings to which he was called. The select committee does not, however, find this "reprehensible." Its only criticism is against Senator McCARTHY.

On the basis of the select committee's own findings, there is no constitutional warrant whatsoever for censure of the junior Senator from Wisconsin, who has violated no law or rule of the Senate, and who certainly has not been guilty or charged with being guilty of disorderly behavior.

MOVE TO TABLE

Mr. President, if an agreement can be had with the majority leader that the Senate might meet on Saturday morning next, at that time, whenever the senior Senator from Nevada can obtain the floor, he will move to table Senate Resolution 301. If it is not possible to reach an agreement to have the Senate meet on Saturday morning, then at any time on Friday when the senior Senator from Nevada can obtain the floor, he will move to table Senate Resolution 301.

RECESS TO 11 A. M. TOMORROW

Mr. KNOWLAND. Mr. President, pursuant to the prior announcement, I now move that the Senate stand in recess until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 54 minutes p. m.) the Senate took a recess until tomorrow, Wednesday, November 17, 1954, at 11 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate November 16 (legislative day of November 10), 1954:

UNITED STATES DISTRICT JUDGES

Edward J. Devitt, of Minnesota, to be United States district judge for the district of Minnesota, vice Matthew M. Joyce, retired.

William E. Miller, of Tennessee, to be United States district judge for the middle district of Tennessee, to fill a new position.

IN THE NAVY

Rear Adm. Frederic S. Withington, United States Navy, to be Chief of the Bureau of Ordnance in the Department of the Navy for a term of 4 years.

SENATE

WEDNESDAY, NOVEMBER 17, 1954

(Legislative day of Wednesday, November 10, 1954)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O Thou Father of our spirits who hearest prayer, to whom all flesh shall come, breathe upon our agitated hearts, we beseech Thee, the benediction of Thy holy calm. Lift the burdens of drab duties and change stern statutes into glad songs. Soothe the anxieties of our baffled spirits, so that with the shield of Thy peace and the sword of Thy truth we may face whatever tests this day may bring, free and fearless. Kindle on the altar of our hearts a flame of devotion to freedom's cause in all the world that shall consume in its white heat every grosser passion. And may our democracy, confessing its failures and purged of its failings, be more and more an inspiring and emancipating power for world security and stability amid the crucial conflict now raging in its mad fury around the world. We ask it in the name of the Prince of Peace. Amen.

THE JOURNAL

On request of Mr. THYE, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, November 16, 1954, was dispensed with.

ALEXANDER HAMILTON BICENTENNIAL COMMISSION

The VICE PRESIDENT. The Chair appoints the Senator from New York [Mr. IVES], the Senator from South Dakota [Mr. MUNDT], the Senator from Virginia [Mr. BYRD], and the Senator from Missouri [Mr. HENNINGS] as members on the part of the Senate of the Alexander Hamilton Bicentennial Commission, created by Public Law 601 of the 83d Congress, approved August 20, 1954.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS

Mr. THYE. Mr. President, I ask unanimous consent that immediately following the quorum call there may be the customary morning hour for the transaction of routine business, under the usual 2-minute limitation on speeches.

The VICE PRESIDENT. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. THYE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Abel	Fulbright	Malone
Anderson	George	Mansfield
Barrett	Gillette	Martin
Bennett	Goldwater	McClellan
Bridges	Green	Monroney
Brown	Hayden	Mundt
Burke	Hendrickson	Murray
Bush	Hennings	Neely
Byrd	Hickenlooper	Pastore
Capehart	Hill	Payne
Carlson	Holland	Potter
Case	Hruska	Purtell
Chavez	Humphrey	Robertson
Clements	Ives	Russell
Cooper	Jackson	Saltonstall
Cotton	Jenner	Schoeppel
Crippa	Johnson, Colo.	Smith, Maine
Daniel, S. C.	Johnson, Tex.	Smith, N. J.
Daniel, Tex.	Johnston, S. C.	Sparkman
Dirksen	Kefauver	Stennis
Douglas	Kilgore	Symington
Duff	Knowland	Thye
Dworshak	Kuchel	Watkins
Eastland	Langer	Welker
Ellender	Lehman	Wiley
Ervin	Lennon	Williams
Ferguson	Long	Young
Flanders	Magnuson	

Mr. SALTONSTALL. I announce that the Senator from Vermont [Mr. AIKEN] is absent on official business.

The Senator from Ohio [Mr. BRICKER] is absent by leave of the Senate.

The junior Senator from Maryland [Mr. BEALL], the senior Senator from Maryland [Mr. BUTLER], the Senator from Oregon [Mr. CORDON], the Senator from Colorado [Mr. MILLIKIN], and the junior Senator from Wisconsin [Mr. McCARTHY] are necessarily absent.

Mr. CLEMENTS. I announce that the Senator from Delaware [Mr. FREAR] is absent on official business.

The Senator from Oklahoma [Mr. KERR] is necessarily absent.

The Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] are absent by leave of the Senate on official business.

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

The Senator from Oregon [Mr. MORSE] is necessarily absent.

The PRESIDING OFFICER (Mr. COTTON in the chair). A quorum is present.

Routine business is now in order.

COMMUNIST DOCTRINE OF WORLD REVOLUTION

Mr. WILEY. Mr. President, for the past 8 years a major portion of our legislative endeavors have been focused upon meeting the single, all-embracing challenge of world communism and world revolution. In these august chambers and throughout the breadth and width of our free world, we have heard debates concerning the true nature and extent of the Communist global menace. We have heard arguments concerning the meaning of Leninism, of Stalinism, of Malenkov-Marxism—arguments concerning the meaning of such fundamental terms as "peace," "coexistence," "imperialism," "Marxian-socialism," and, finally, "world revolution."

The actual meaning of these fundamental concepts, as employed by the West and as employed by the forces of